

EXHIBIT B

PETER KENT
Smartmatic USA Corp vs Michael J. LindellAugust 07, 2024
1-4

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|--------|--|--------|---|
| 1 | IN THE UNITED STATES DISTRICT COURT | 1 | INDEX OF EXAMINATION |
| 2 | FOR THE DISTRICT OF MINNESOTA | | EXAMINATION |
| 3 | Civil Action No. 22-cv-0098-WMW-JFD | 2 | August 7, 2024 |
| 4 | SMARTMATIC USA CORP.,) | 3 | |
| | SMARTMATIC INTERNATIONAL) | 4 | PETER KENT |
| 5 | HOLDINGS B.V., and SGO) | 5 | EXAMINATION BY MS. LEVINE-PATTON |
| | CORPORATION LIMITED,) | 6 | |
| 6 |) | 7 | |
| | Plaintiffs,) | 8 | |
| 7 |) | 9 | |
| 8 | vs.) | 10 | |
| |) | 11 | |
| 9 | MICHAEL J. LINDELL and MY) | 12 | |
| | PILLOW, INC.,) | 13 | |
| |) | 14 | |
| 10 | Defendants.) | 15 | |
| 11 | ----- | 16 | |
| 12 | | 17 | |
| 13 | REMOTE DEPOSITION OF PETER KENT taken | 18 | |
| 14 | Wednesday, August 7, 2024, pursuant to Rule 30 of | 19 | |
| 15 | the Federal Rules of Civil Procedure beginning at | 20 | |
| 16 | 9:32 a.m. Central Time, via videoconference, | 21 | |
| 17 | Denver, Colorado, before Patricia Vigil-Ladner, a | 22 | |
| 18 | Registered Professional Reporter and Notary Public | 23 | |
| 19 | for the State of Colorado. | 24 | |
| 20 | | 25 | |
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| 25 | | | |
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| 1 | REMOTE APPEARANCES | 1 | INDEX OF EXHIBITS |
| 2 | | 2 | FOR IDENTIFICATION |
| 3 | | | REFERENCE |
| 4 | ON BEHALF OF THE PLAINTIFFS: | 3 | EXHIBIT 692 KENT REPORT |
| 5 | MAURA T. LEVINE-PATTON, ESQ. | 22 | |
| | Benesch, Friedlander, Coplan & Aronoff LLP | 4 | EXHIBIT 693 TWITTER DOCUMENTS - 30 PGS. |
| 6 | 71 South Wacker Drive, Suite 1600 | 30 | |
| | Chicago, Illinois 60606 | 5 | EXHIBIT 694 BERGER REBUTTAL REPORT |
| 7 | 312-624-6368 | 55 | |
| | mlevine-patton@beneschlaw.com | 6 | EXHIBIT 695 ARTICLE 12/3/2021 |
| 8 | | 67 | |
| | MEGHAN GOLDEN, ESQ. | 7 | EXHIBIT 696 ARTICLE 8/3/2017 |
| 9 | Benesch, Friedlander, Coplan & Aronoff LLP | 93 | |
| | 71 South Wacker Drive, Suite 1600 | 8 | EXHIBIT 697 DOCUMENT DATED 12/24/2019 |
| 10 | Chicago, Illinois 60606 | 98 | |
| | 312-624-6378 | 9 | EXHIBIT 698 ARTICLE 5/2/2019 |
| 11 | mgolden@beneschlaw.com | 103 | |
| 12 | | 10 | EXHIBIT 699 TWITTER PROFILE |
| | ON BEHALF OF THE DEFENDANTS: | 11 | |
| 13 | CHRISTOPHER I. KACHOUROFF, ESQ. | 106 | |
| 14 | McSweeney Cynkar & Kachouroff, PLLC | 12 | |
| | 13649 Office Place, Suite 101 | 11 | EXHIBIT 700 KENT TWITTER PROFILE |
| 15 | Woodbridge, Virginia 22192 | 107 | |
| | 703-621-3300 | 12 | EXHIBIT 701 TWEET POST - 1 PG. |
| 16 | chris@mck-lawyers.com | 113 | |
| 17 | | 13 | EXHIBIT 702 JUDGE'S ORDER |
| 18 | ALSO PRESENT: | 14 | |
| 19 | Don Savoy, videographer | 119 | |
| 20 | | 15 | EXHIBIT 703 DRIPS HOLDINGS ORDER |
| 21 | | | |
| 22 | | 120 | EXHIBIT 704 OPAL LABS ORDER |
| 23 | | | |
| 24 | | | |
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| <p>1 P R O C E E D I N G S 2 * * * * *</p> <p>3 THE VIDEOGRAPHER: We are now on the record. 4 The time is 9:32 a.m. Central time. Today is 5 August the 7th, 2024.</p> <p>6 This begins the videoconference deposition 7 of Peter Kent. The case is Smartmatic USA 8 Corporation, et al versus Lindell, et al.</p> <p>9 My name is Don Savoy, I am your remote 10 videographer today. The court reporter is Patty 11 Vigil. We are representing Esquire Deposition 12 Solutions.</p> <p>13 Counsel, will you please state your name 14 and who you represent. Afterwards, the court 15 reporter will swear in the witness.</p> <p>16 MS. LEVINE-PATTON: Maura Levine-Patton on 17 behalf of the Smartmatic, Plaintiffs.</p> <p>18 MR. KACHOUROFF: Christopher Kachouroff on 19 behalf of My Pillow and Mike Lindell.</p> <p>20 THE REPORTER: And, Mr. Kent, you can hear 21 me okay?</p> <p>22 MR. KENT: I can.</p> <p>23 PETER KENT, 24 having been first duly sworn, testified on oath as 25 follows:</p> | <p>Page 5</p> <p>1 file manager open and my report. I can close that 2 if you wish.</p> <p>3 Q. You can leave it for now. We will 4 introduce your report and use it.</p> <p>5 Do you have anything else in front of you?</p> <p>6 Any notes or paper?</p> <p>7 A. No.</p> <p>8 Q. Do you understand that you are providing 9 testimony today under oath?</p> <p>10 A. I do.</p> <p>11 Q. And do you understand that you have to tell 12 the truth?</p> <p>13 A. I do.</p> <p>14 Q. Do you understand your testimony is being 15 recorded by our court reporter?</p> <p>16 A. Yes.</p> <p>17 Q. And do you understand your testimony is 18 also being videotaped?</p> <p>19 A. Yes.</p> <p>20 Q. Do you understand your testimony can be 21 shown to the jury in this case?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have any reason today that would 24 prevent you from providing accurate testimony?</p> <p>25 A. I don't, but while we're on that point, I</p> |
| <p>1 EXAMINATION 2 BY MS. LEVINE-PATTON: 3 Q. Good morning, Mr. Kent. 4 A. Good morning. 5 Q. Could you please state and spell your name 6 for the record. 7 A. Peter Kent, P-E-T-E-R, K-E-N-T. 8 Q. My name is Maura Levine-Patton. And I 9 represent the Smartmatic entities, who are the 10 plaintiffs in this case. 11 Do you understand that? 12 A. I do. 13 Q. Mr. Kent, where do you live? 14 A. Denver, Colorado. 15 Q. Since we're appearing virtually today, I 16 must ask, are you in Denver, Colorado, right now? 17 A. I am. 18 Q. Is anyone else in the room with you? 19 A. No. 20 Q. Where is your cell phone currently located? 21 A. It's on the floor down here. 22 Q. Do you have any papers or electronic 23 documents in front of you? 24 A. On my computer, I do have my report open. 25 I can close it if you wish. But that's the only</p> | <p>Page 6</p> <p>1 do want to mention, I just had COVID. So I may be 2 coughing and spluttering. I also have this little 3 cough drops I might need to use now and then. So I 4 just wanted to warn you.</p> <p>5 Q. Well, I hope you're recovering well. 6 Please let me know if at any time you'd like to 7 take a break. I'm happy to take a break when it's 8 convenient for you. So long as there's not a 9 question pending on the record.</p> <p>10 A. Sure. Thanks.</p> <p>11 Q. I'm going to go over a couple of ground 12 rules for a deposition. Just -- in order for the 13 transcript to be accurate, I'm going to ask that 14 you let me finish my question before you provide 15 your answers, just so we can avoid talking over one 16 another.</p> <p>17 Do you agree to try to do that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you understand that all of your 20 answers must be verbal today as opposed to nodding 21 your head?</p> <p>22 A. Yes.</p> <p>23 Q. During my questions, your counsel may 24 object to a question. Do you understand you are 25 required to answer even after counsel objects?</p> |

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| <p style="text-align: right;">Page 9</p> <p>1 A. Yes. 2 Q. If I ask you a question and you do not 3 understand it, just let me know; will you do that? 4 A. Yes. 5 Q. If I do ask a question and you answer it, I 6 will assume that you understood it and answered it 7 to the best of your ability. Is that fair? 8 A. Yes. 9 Q. Now have you ever been deposed before, 10 Mr. Kent? 11 A. I have. 12 Q. Approximately how many times? 13 A. 75. 14 Q. And were all of those depositions when you 15 served as an expert witness? 16 A. Well, if we want to add in a divorce, 17 that's another one. But primarily those 75 are 18 expert witness issues. 19 Q. So I understand, there's approximately 75 20 expert depositions, and then also you served as a 21 fact witness in a divorce proceeding; is that 22 right? 23 A. Yeah, and I served as a witness in a couple 24 of other cases. As an author I was once deposed 25 about a book I had written that was relevant to</p> | <p style="text-align: right;">Page 11</p> <p>1 remember when it was, eight months ago, ten months 2 ago, a year. 3 Q. Could it be Parkers Daniel Kibort? 4 A. Yes. 5 Q. And had you ever met the person that had 6 contacted you from Parkers Daniel before? 7 A. No. 8 Q. Had you ever worked with any attorney from 9 Parkers Daniel before? 10 A. Not that I'm aware of, no. 11 Q. My understanding is that today you're being 12 represented by Mr. Kachouroff; is that correct? 13 A. Yes. 14 Q. Have you ever worked with Mr. Kachouroff on 15 a previous engagement? 16 A. No. 17 Q. Had you ever heard of Mr. Lindell before 18 you were contacted to serve as an expert in this 19 matter? 20 A. Yes. 21 Q. In what context had you heard of 22 Mr. Lindell previously? 23 A. Well, in the context obviously of his 24 pillow ads, and in the context of his political 25 speech.</p> |
| <p style="text-align: right;">Page 10</p> <p>1 some patent case. And there was some other case, I 2 can't remember what it was now. 20 years ago, I 3 was called in. Again, technical issue, but I was 4 deposed in that. 5 So there's probably like three or four 6 depositions which were taken when I was not an 7 expert witness. Excuse me. 8 Q. When was the first time that you were 9 deposed? 10 A. I don't know. It could be 20 years ago. 11 Q. And when was the most recent time you were 12 deposed? 13 A. A few months ago. 14 Q. Have you ever testified at a trial? 15 A. I have. 16 Q. Approximately how many times? 17 A. Well, at trial, court hearings and 18 mediation hearings, it's something like -- like 15 19 or 16. 20 Q. Now, how were you initially contacted to 21 serve as an expert witness in this case? 22 A. I -- I was called by the previous lawyer 23 working for Mr. Lindell, Parker -- I can't remember 24 the full name, Parker something or other. An 25 attorney called me about -- actually, I don't</p> | <p style="text-align: right;">Page 12</p> <p>1 Q. And you testified that you were first 2 contacted approximately eight to ten months ago; is 3 that right? 4 A. Well, that was -- excuse me -- that was 5 kind of a guess. I don't recall when it was. It 6 could be a year ago. 7 Q. Do you recall when you were officially 8 retained by the defendants in this case? 9 A. I don't, but if you look at the date on my 10 report, it's probably a couple of months before 11 then. 12 Q. Who wrote your expert report in this case? 13 A. I did. 14 Q. Did you draft the entirety of the report by 15 yourself? 16 A. I did. 17 Q. Did anyone else work with you to draft your 18 report in this matter? 19 A. Not to draft it, but as normally happens a 20 draft is sent to the attorneys, and they perhaps 21 suggest things and correct spelling mistakes, if 22 they notice them. But I wrote that report myself. 23 Q. And when you say "the attorneys," are you 24 referring to the Parkers Daniel attorneys in this 25 case?</p> |

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| <p style="text-align: right;">Page 13</p> <p>1 A. Yes.</p> <p>2 Q. Do you know approximately how many</p> <p>3 attorneys from Parkers Daniel worked on your report</p> <p>4 with you?</p> <p>5 A. Probably two. Well, not worked on the</p> <p>6 report with me, but I think at least two reviewed</p> <p>7 it.</p> <p>8 Q. And was there anyone else other than the</p> <p>9 Parkers Daniel attorneys who reviewed your report</p> <p>10 before you served it in this matter?</p> <p>11 A. No.</p> <p>12 Q. Have you communicated with any other expert</p> <p>13 witnesses for the defendants in this case?</p> <p>14 A. No.</p> <p>15 Q. I'd like to talk a little bit about what</p> <p>16 you did to prepare for today's deposition. When</p> <p>17 did you first begin preparing for your deposition</p> <p>18 today?</p> <p>19 A. Well, I don't know about preparing. I</p> <p>20 spoke to Chris a couple of weeks ago, several weeks</p> <p>21 ago, when we were trying to plan the date of the</p> <p>22 deposition. Actual preparation was really at the</p> <p>23 end of the day yesterday, the day before, I guess,</p> <p>24 when I was reading my report and reading the</p> <p>25 rebuttal to my report.</p> | <p style="text-align: right;">Page 15</p> <p>1 a video on it of someone from Smartmatic talking</p> <p>2 about the Venezuelan election conspiracy.</p> <p>3 Q. And just to refresh your recollection, I</p> <p>4 think you're thinking of Dr. Jonah Berger. I know</p> <p>5 there's a lot of names floating in this case, just</p> <p>6 so it's at the top of your head.</p> <p>7 A. Berger?</p> <p>8 Q. Yes.</p> <p>9 A. That sounds right.</p> <p>10 Q. Did you review any other information in</p> <p>11 this case or about this case online in preparation</p> <p>12 for your deposition today?</p> <p>13 A. I don't -- I don't think so. That's the</p> <p>14 one I specifically recall. I don't think there's</p> <p>15 anything else, but I might have quickly clicked on</p> <p>16 one or two things from the report.</p> <p>17 Q. Approximately how many hours have you spent</p> <p>18 working on this case since you were hired?</p> <p>19 A. Well, that I -- that I don't know without</p> <p>20 looking at my -- my records unfortunately.</p> <p>21 Q. Can you give me an estimate? Is it less</p> <p>22 than 100?</p> <p>23 A. Yes, it probably is less than 100.</p> <p>24 Q. Less than 50?</p> <p>25 A. It's probably between 50 and 100.</p> |
| <p style="text-align: right;">Page 14</p> <p>1 Q. Did you attend any meetings other than the</p> <p>2 one with Mr. Kachouroff a week ago in preparation</p> <p>3 for your deposition today?</p> <p>4 A. It wasn't an in-person meeting, it was a</p> <p>5 phone call. No, I hadn't -- there have been no</p> <p>6 other kinds of meetings with anybody else.</p> <p>7 Q. Now you mentioned reviewing your report and</p> <p>8 also the rebuttal report in your -- in this case.</p> <p>9 Did you review any other documents to prepare for</p> <p>10 your deposition today?</p> <p>11 A. While reading my report and the rebuttal</p> <p>12 report, I dipped into a couple of things. So, for</p> <p>13 instance, I definitely looked at a Web page and a</p> <p>14 video that was cited in my report.</p> <p>15 Q. Do you recall the subject matter of the Web</p> <p>16 page and video that you reviewed?</p> <p>17 A. Yeah. I wish I could remember your</p> <p>18 expert's name now. But anyway, the rebuttal expert</p> <p>19 who claimed I made a misleading statement, and I</p> <p>20 thought that doesn't sound right. And so I went to</p> <p>21 my report and discovered that actually I hadn't</p> <p>22 made a misleading statement. But at that point I</p> <p>23 dipped into the -- I went to my citation, which is</p> <p>24 a Web page at -- what's the name? I don't remember</p> <p>25 the name of the site, but it's a Web page that had</p> | <p style="text-align: right;">Page 16</p> <p>1 Q. And does that include all of the time you</p> <p>2 spent drafting your expert report?</p> <p>3 A. Well, yes, that general number would</p> <p>4 include all the time drafting a report and</p> <p>5 preparing for this deposition.</p> <p>6 Q. Now, how much are you being compensated for</p> <p>7 your work in this matter?</p> <p>8 A. \$600 an hour.</p> <p>9 Q. Did you negotiate that rate at all with the</p> <p>10 defendants?</p> <p>11 A. Well, I -- I discussed the rate with the</p> <p>12 previous law firm. I'm not sure how much</p> <p>13 negotiation was involved, but I certainly discussed</p> <p>14 it with them.</p> <p>15 Q. Is \$600 per hour your standard hourly rate</p> <p>16 for expert witness work in litigation matters?</p> <p>17 A. Yes.</p> <p>18 Q. Does your hourly rate ever change depending</p> <p>19 on what client you are serving?</p> <p>20 A. Yes, sometimes we do negotiate it down.</p> <p>21 Q. Do you recall if you negotiated your rate</p> <p>22 at all in this matter down from a standard rate?</p> <p>23 A. No, no, I wouldn't have a negotiated it</p> <p>24 down to 600.</p> <p>25 Q. Have you been paid yet in this case?</p> |

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| <p>1 A. I have.</p> <p>2 Q. How much have you been paid in this case?</p> <p>3 A. Well, again, I don't know without looking</p> <p>4 at my records.</p> <p>5 Q. More than \$10,000?</p> <p>6 A. Yes.</p> <p>7 Q. More than \$20,000?</p> <p>8 A. Probably.</p> <p>9 Q. More than \$30,000?</p> <p>10 A. Possibly.</p> <p>11 Q. More than \$50,000?</p> <p>12 A. I don't know. I don't think so.</p> <p>13 MR. KACHOUROFF: I'll go ahead and</p> <p>14 stipulate, we paid him approximately \$90,000 to</p> <p>15 date. That will make it easier for you and make</p> <p>16 this go faster.</p> <p>17 THE DEPONENT: Can I jump in there? That</p> <p>18 90,000 was not just for this case.</p> <p>19 MR. KACHOUROFF: Correct, that was for both</p> <p>20 cases.</p> <p>21 MS. LEVINE-PATTON: So -- I'm sorry. Thank</p> <p>22 you. Thanks, Chris.</p> <p>23 Q. (By Ms. Levine-Patton) It sounds like you</p> <p>24 have a couple of open matters with these</p> <p>25 defendants; is that correct?</p> | <p>Page 17</p> <p>1 Q. Do you recall when you were first contacted</p> <p>2 to serve as an expert in the Coomer matter?</p> <p>3 A. Not really. A year -- a year ago,</p> <p>4 18 months ago. I'm not really sure.</p> <p>5 Q. And were you also contacted by Parkers</p> <p>6 Daniel to serve in the Coomer --</p> <p>7 A. Yes.</p> <p>8 Q. I'm sorry. Did you issue an opening report</p> <p>9 in that case?</p> <p>10 A. I did.</p> <p>11 Q. Do you recall approximately when that</p> <p>12 report was?</p> <p>13 A. Probably two or three months before my</p> <p>14 report in this case.</p> <p>15 Q. Did you ever issue a rebuttal or a reply</p> <p>16 report in that case?</p> <p>17 A. No.</p> <p>18 Q. What was the nature of your work in the</p> <p>19 Coomer case?</p> <p>20 A. Similar to the work in this case, an</p> <p>21 analysis of social media reach of certain</p> <p>22 statements.</p> <p>23 Q. Was your assignment the same in that case</p> <p>24 as it was in this case?</p> <p>25 A. I would say my assignment was similar. I</p> |
| <p>1 A. I don't know the status of the other -- the</p> <p>2 other case. I mean, this one is open, but I don't</p> <p>3 know what the status is of the other case. I</p> <p>4 haven't discussed it with Chris in some time.</p> <p>5 Q. And I'm not prying into any of your</p> <p>6 communications specifically with Chris, or any</p> <p>7 other attorney. But just generally speaking, is</p> <p>8 the other case that you're referring to the lawsuit</p> <p>9 brought by Mr. Coomer against Mr. Lindell?</p> <p>10 A. Yes, that's right.</p> <p>11 Q. And you served as an expert witness for</p> <p>12 Mr. Lindell in the Coomer matter; is that right?</p> <p>13 A. I certainly did, whether I am moving</p> <p>14 forward I don't know. I don't know what's</p> <p>15 happening with that case. I suspect it's still</p> <p>16 open, but I don't know the details.</p> <p>17 Q. And the \$90,000 that you have been paid to</p> <p>18 date by the defendants includes all of your work in</p> <p>19 both this matter and the Coomer matter; is that</p> <p>20 accurate?</p> <p>21 A. Correct.</p> <p>22 Q. Were you ever paid a retainer fee by anyone</p> <p>23 to serve as an expert in this case, Smartmatic</p> <p>24 versus Lindell?</p> <p>25 A. I don't think so.</p> | <p>Page 18</p> <p>1 Q. Have you been retained as an expert witness</p> <p>2 by My Pillow or Mr. Lindell in any other cases?</p> <p>3 A. I'm not quite sure. There was some talk</p> <p>4 about another case. I certainly never worked on</p> <p>5 another case. These are the only two cases I've</p> <p>6 worked on.</p> <p>7 Q. And without revealing any privileged</p> <p>8 communications, is that other case a defamation</p> <p>9 matter that you discussed but have not yet served</p> <p>10 in?</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall who the plaintiff is in that</p> <p>13 matter?</p> <p>14 A. I do.</p> <p>15 Q. And who is that?</p> <p>16 A. Well, there's no objection, so I assume I'm</p> <p>17 allowed to say. It's Dominion.</p> <p>18 Q. And you have not been retained in the</p> <p>19 Dominion case; is that right?</p> <p>20 A. Well, I think there was a verbal discussion</p> <p>21 of me working on that case. However -- with</p> <p>22 Parker. However, I haven't worked on that case,</p> <p>23 and don't know if I will be working on that case.</p> |

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| 1 Q. Is your hourly rate in the Coomer case the 2 same as it is in the Smartmatic case? 3 A. Yes. 4 Q. Are you -- have you been deposed in the 5 Coomer case? 6 A. Yes. 7 Q. Do you recall when? 8 A. Six months ago. What month are we in? 9 Yeah, I don't know. That's a guess. Excuse me. 10 Q. And are you planning or prepared to testify 11 at trial in the Coomer case? 12 A. If it's necessary. 13 Q. Have you performed any other work for 14 Mr. Lindell outside of the two cases, plus the 15 Dominion matter that we've discussed so far today? 16 A. No. 17 Q. No consulting work? 18 A. No. 19 Q. What about for My Pillow? Any other work 20 for My Pillow? 21 A. No. 22 Q. No consulting work? 23 A. No. 24 Q. Okay. We're going to enter Exhibit 692. 25 And Meghan is going to drop the document in the | 1 between the 2020 presidential election and 2 February 24, 2021." 3 Do you see that? 4 A. I do. 5 Q. Is that an accurate recitation of your 6 assignment in this case? 7 A. Yes. 8 Q. Is there anything else you were assigned to 9 do in this case? 10 A. Well, no, not really. I mean, that 11 encompasses it. 12 Q. And has your assignment ever changed during 13 the history of this case? 14 A. No. 15 Q. Okay. I'd like to turn to page 43 of your 16 report. Please let me know when you're there. 17 A. Yes. 18 Q. It says, "Summary of Conclusions." Do you 19 see that? 20 A. I do. 21 Q. You list 12 bullet points under paragraph 115. 22 Do you see that? 23 A. Yes. 24 Q. Do you have any other opinions or 25 conclusions in this case outside of these 12 bullet |
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| 1 chat, and you should be able to open it from there, 2 but I'll let you know when it's up. 3 (Exhibit 692 marked for identification.) 4 Q. (By Ms. Levine-Patton) Okay. I think it's 5 available. Let me know when you have it in front 6 of you. 7 A. Well, it says -- here we go. Yes, I have 8 it open. 9 Q. Excellent. Will you please -- is this the 10 expert report that you submitted in this matter? 11 Feel free to scroll through it if you need to. 12 A. Yes, it certainly appears to be. 13 Q. I'd like to first turn to page 6 of your 14 report. Let me know when you're there? 15 MR. KACHOUROFF: Meghan, I'm sorry to 16 interrupt. Can you tell me what you've marked this 17 report, what number? 692? 18 MS. LEVINE-PATTON: Yes, sir. 19 MR. KACHOUROFF: Thank you. 20 Q. (By Ms. Levine-Patton) Mr. Kent, do you 21 see Section 5 Background on page 6? 22 A. Section 5 -- yes. 23 Q. It says: 24 "I was asked to investigate and report on 25 the recent statements about Smartmatic | 1 points? 2 A. Not currently. 3 Q. I'd like to look at the first bullet point. 4 Is it your opinion that the statements Smartmatic 5 regards as defamatory were widely broadcast by 6 numerous parties prior to defendant's first 7 comments regarding Smartmatic? Is that an accurate 8 summary of your opinion? 9 A. Yes, but I'm upset that there's no 10 apostrophe, but apart from that, yes. 11 Q. Okay. It's a long report. 12 I'd like to go to the second to last bullet 13 point, which is on page 44. You wrote: 14 "Controversial commentary about Smartmatic 15 was already present on the Web prior to the 16 election, including allegations of vote 17 manipulation in other elections." 18 Do you see that? 19 A. I do. 20 Q. Sitting here today, is that an accurate 21 statement of one of your opinions in this case? 22 A. Yes. 23 Q. Okay. We're going to look at the last 24 bullet point, which is also on page 44. You wrote: 25 "A debate had been underway in the United |

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| <p style="text-align: right;">Page 25</p> <p>1 States since at least 2006 regarding voting 2 machine security, with many allegations 3 that the various machines were not secure." 4 Is that an opinion that you render in this 5 case? 6 A. Yes. 7 Q. And sitting here today, is that an accurate 8 statement of an opinion that you made in this case? 9 A. Yes. 10 Q. Now you mentioned here that you read the 11 rebuttal report of Professor Berger that was served 12 on July 9, 2024; is that right? 13 A. Yes. 14 Q. And you're aware that that report replies 15 to your expert report, which you served on 16 September 22, 2023, correct? 17 A. Yes. 18 Q. Did reading Professor Berger's report lead 19 you to change any of your opinions in your opening 20 report? 21 A. No. 22 Q. Have you formed any new opinions since 23 reading Professor Berger's rebuttal report? 24 A. Not of substance. I mean, I have the 25 opinion that he misinterpreted something I said at</p> | <p style="text-align: right;">Page 27</p> <p>1 the materials you considered when performing your 2 analysis in this case? 3 A. I believe so, with the caveat that they are 4 also citations within the report that may not be in 5 here. Citations -- well, there are. Citations to 6 different websites, for instance. But otherwise, 7 yes, this should be materials. 8 Q. You don't list any depositions here. Did 9 you review any depositions in this matter? 10 A. I don't recall seeing any depositions. If 11 they're not listed here, I probably didn't. 12 Q. Did you review anything outside of this 13 list, and Mr. -- Dr. Berger's report in preparation 14 for your deposition? 15 A. Anything outside that list. Well, again, 16 as I mentioned earlier, I did certainly look at a 17 website that was citing my report. 18 Q. How did you gather the list of documents 19 that appears in Exhibit B? 20 A. So these -- these are documents I was sent, 21 and so they're, you know, they're sitting in 22 my -- on my hard drive, and I copied them and paste 23 the names into my document. 24 Q. Were they sent to you by Parkers Daniel? 25 A. Yes.</p> |
| <p style="text-align: right;">Page 26</p> <p>1 least once in the report -- in his report, but it 2 hasn't changed any of my, you know, the core 3 opinions in this case. 4 Q. So you have no new opinions regarding the 5 effect of Mr. Lindell's statements on online 6 commentary; is that right? 7 A. I -- I -- I -- none of my opinions refer to 8 Mr. Lindell's -- the effectiveness of Lindell's 9 statements. 10 Q. And do you have any new opinions regarding 11 the effect of Mr. Lindell's statements on the 12 public perception of Smartmatic? 13 A. I don't. That was out of my purview. I 14 wasn't asked to look at that. 15 Q. Have you formed any other opinions 16 regarding the Lindell commentary about Smartmatic 17 and whether that was different than the commentary 18 about Smartmatic that appeared prior to 19 February 2021? 20 A. I have not. 21 Q. Let's look at page 46 of your report, which 22 is Exhibit B. 23 Do you see that? 24 A. I do. 25 Q. Is this a full and accurate list of all of</p> | <p style="text-align: right;">Page 28</p> <p>1 Q. Were they sent to you by anyone else? 2 A. No. 3 Q. Did anyone -- did you ask for any specific 4 documents from Parkers Daniel? 5 A. Not that I recall. 6 Q. Did you watch all of the videos that are 7 alleged to be defamatory in the first supplemental 8 complaint in this case? 9 A. I -- I don't recall what those videos were. 10 Q. Did you review all of the statements 11 Mr. Lindell made in this case that are alleged to 12 be defamatory in the first supplemental complaint? 13 A. I'm sure I read the complaint, but I don't 14 recall what's in there, what I -- what I saw. 15 Q. I'd like to look at the first half of 16 page 46. You specifically note looking at 17 Exhibits 143, 144 and 145 to the first supplemental 18 complaint. 19 Do you see that? 20 A. Yes, yes. 21 Q. Why did you consider those exhibits 22 specifically? 23 A. Well -- okay. First, I want to explain 24 what materials considered means, because this is 25 ambiguous in the field of expert witnessing. The</p> |

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| 1 fact that it's -- okay. So according to the | 1 MR. KACHOUROFF: Yes, objection to form and |
| 2 Federal Rules of Evidence I need to list the | 2 because you're mischaracterizing what his materials |
| 3 documents -- materials considered. However, that | 3 considered list says. |
| 4 has been defined differently by different courts, | 4 MS. LEVINE-PATTON: Thank you. Your |
| 5 is my understanding. And so what I do is I list | 5 objection is noted. |
| 6 all the documents that I had available to me. If a | 6 Q. (By Ms. Levine-Patton) Can you please |
| 7 document was sent to me, I included on that list | 7 answer the question, Mr. Kent? |
| 8 even if it really didn't result in any opinion, or | 8 A. So thank you for drawing my attention to |
| 9 was not used to support any particular opinion. | 9 that, but I don't know -- what was the question |
| 10 I know there have been lawsuits related to | 10 again? Why did they send it to me? |
| 11 this very issue. So the safe thing is just to | 11 Q. Does this refresh your recollection as to |
| 12 include everything I was sent. | 12 why Parkers Daniel would have sent this to you as |
| 13 Q. Do you know why those three exhibits were | 13 one of three exhibits in the first supplemental |
| 14 sent to you out of the over 150 exhibits that were | 14 complaint, as opposed to sending you the full range |
| 15 filed with the first supplemental complaint? | 15 of exhibits? |
| 16 A. I don't know, because offhand without | 16 MR. KACHOUROFF: Once again objection to |
| 17 looking at them, I don't know what they were. Most | 17 form. That's not what his materials list says. |
| 18 of these -- well, pretty much everything in here I | 18 You can answer. |
| 19 at least dipped into. | 19 THE DEPONENT: So -- I mean, the simple |
| 20 So again, they're not necessary materials | 20 answer is no. It doesn't remind me of why they |
| 21 that were used to provide an opinion or to support | 21 sent this to me. But again, apparently I had |
| 22 an opinion, but I do -- if I receive a document, I | 22 Exhibits 1 through 145, but I can't -- I can't say |
| 23 generally at least open it to check what's in it, | 23 why any particular document was sent to me. |
| 24 but I don't report what these are. | 24 Q. (By Ms. Levine-Patton) Do you know why |
| 25 Q. Okay. I'm going to show you one of them, | 25 these three exhibits were pulled out of the list of |
| Page 30 | Page 32 |
| 1 which is Exhibit 144, of the first supplemental | 1 the complete exhibit number? Did they have a |
| 2 complaint. We're going to be introducing that as | 2 particular significance or importance? |
| 3 Exhibit 693. | 3 A. I -- I don't know why they were separate. |
| 4 A. Okay. | 4 I have no idea. |
| 5 Q. It's going to show up in your chat | 5 Q. Now looking back at Exhibit 693, do you see |
| 6 (Exhibit 693 marked for identification.) | 6 Mr. Lindell published this tweet on January 31st, |
| 7 Q. (By Ms. Levine-Patton) Please let me know | 7 2023? |
| 8 when you have that open. | 8 A. Yes. |
| 9 A. I'm trying. Okay. I do have it open. | 9 Q. Now the period you examined in your expert |
| 10 Q. Do you see that -- do you recognize this | 10 report was between the 2020 presidential election |
| 11 document? | 11 and February 4, 2021; is that right? |
| 12 A. Yeah, it looks familiar. | 12 A. If that's what the report says. I don't |
| 13 Q. Does this refresh your recollection as to | 13 recall the specific days. |
| 14 why Parkers Daniel would have sent this to you as | 14 Q. Well, let's -- let's look back at your |
| 15 only one of three exhibits from the first | 15 report just so we're all on the same page. If you |
| 16 supplemental complaint, as opposed to sending you | 16 go to page 6, paragraph 17, please. |
| 17 all 150 or so? | 17 A. Yes. Okay. |
| 18 A. I -- I really don't know the answer to | 18 Q. You said: |
| 19 that. Excuse me. | 19 "I was asked to investigate and report on |
| 20 MR. KACHOUROFF: I do have an objection. | 20 the recent statements about Smartmatic |
| 21 You're mischaracterizing. I think he has all the | 21 between the 2020 presidential election and |
| 22 exhibits. If you look above those three exhibits, | 22 February 4, 2021." |
| 23 doesn't it say 1 through 142? | 23 Is that right? |
| 24 MS. LEVINE-PATTON: I'm sorry. Is that an | 24 A. Yes. |
| 25 objection, Mr. Kachouroff? | 25 Q. Now this tweet that we're looking at in |

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| <p style="text-align: right;">Page 33</p> <p>1 Exhibit 693 is outside of that time period, 2 correct? 3 A. Sorry. What -- outside that time period. 4 It's within that. Oh, 2021. When is this? 2023, 5 yes, it's outside. 6 Q. How was your review of this specific 7 exhibit relevant to your analysis in this case? 8 A. Well, it clearly wasn't. 9 Q. You do not list any court file documents in 10 Exhibit B; is that right? 11 A. I -- I don't know. 12 Q. Please take a chance to look it over, and 13 let me know if you see any court file documents in 14 Exhibit B. 15 A. What do you mean by court file? You say 16 court file or court filed? 17 Q. I'm sorry. Yeah, that was a bad question. 18 I wasn't clear. I mean, documents, motions, 19 memorandums of law filed by the attorneys in this 20 matter. 21 A. Well, I have the complaints. Does that 22 count as one? 23 Q. Sure. Outside of the complaint. 24 A. And the exhibits to the complaint and the 25 first supplemental complaint, so. Well, we have</p> | <p style="text-align: right;">Page 35</p> <p>1 Smartmatic produced in this case when rendering 2 your opinions? 3 A. I don't know. Are any of these documents 4 on this list provided by Smartmatic? If not, then 5 I didn't. 6 Q. Why not? 7 A. Why? 8 Q. Yes, sir. 9 A. I'm asking you why. It's a rhetorical 10 question. I don't understand what relevance it 11 would have been to the task I was sent. 12 Q. Did you review any documents that the 13 defendants produced in this case when rendering 14 your opinions? 15 A. Say again, did I review? 16 Q. Any documents that the defendants produced 17 in this case when rendering your opinions in this 18 case? 19 A. Well, again, I had available to me the 20 documents in this exhibit. Exhibit B here. If -- 21 if you're after a document that's not on that list, 22 then I would say, no. 23 Q. Now, I'm still on page 46. The second to 24 last split before the break in the page reads 25 2023-09-21-TGP.</p> |
| <p style="text-align: right;">Page 34</p> <p>1 various complaints. Smartmatic being news media, 2 BPAL. We have all those. 3 Q. Did you review defendant's memorandum of 4 law in support of its motion to dismiss the 5 complaint in this case? 6 A. I don't know. Is it in here? 7 Q. I'll represent to you it's not in this 8 list. 9 A. Then I -- 10 Q. Would you have reviewed it outside of this 11 list? 12 A. No. I doubt very much I would have seen 13 it. 14 Q. Did you ask to review that? 15 A. I wouldn't have known it existed. 16 Q. Did you review Smartmatic's opposition to 17 defendant's memorandum of law to dismiss this case? 18 A. If it's not in that list, then, no. 19 Q. You also don't list any Bates-stamped 20 documents. Do you understand what Bates-stamped 21 documents are? 22 A. I do. 23 Q. Do you list any in Exhibit B? 24 A. I don't see any. 25 Q. Did you review any documents that</p> | <p style="text-align: right;">Page 36</p> <p>1 Do you see that? 2 A. I do. 3 Q. Do you recall what document that refers to? 4 A. No, I don't. 5 Q. The second half of this page lists several 6 Excel documents; is that correct? 7 A. There are a number, yes. 8 Q. Are these Excel documents also from Parkers 9 Daniel to you? 10 A. No, I believe these are documents I 11 actually created. These are documents from Infegy, 12 which is the tool I used for analysis. 13 Q. And did you produce those documents when 14 you produced your report in this -- when you served 15 your report in this case? 16 A. I did. Well, I provided the documents to 17 Parker Daniels, and they, I assume, provided them 18 to you guys, but that's out of my hands. 19 Q. Were all of these Excel documents from 20 Infegy? 21 A. Well, not all of them. I mean, for 22 instance, the second one is from BuzzSumo. A lot 23 of them are from Infegy. I don't recall where the 24 Bipar Share comes from, but it's probably defined 25 within my report somewhere.</p> |

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| <p>1 The rest -- apart from those two, the rest 2 are Infegy documents or Infegy reports. 3 Q. Just to be clear, this list of Excel 4 documents is not publicly available; is that right? 5 A. No, these are spreadsheets that I created 6 and I provided. 7 Q. I'd like to look at page 47 of Exhibit B. 8 The heading at the top is Google Analytics Metrics. 9 Do you see that? 10 A. I do. 11 Q. Each of the documents listed here are PDFs, 12 or it appears that way; is that fair? 13 A. Yes. 14 Q. Do you recall how you went about collecting 15 these PDFs? 16 A. I didn't collect these. I was given these. 17 Q. Who were you given these by? 18 A. Well, by the attorneys. 19 Q. Do you know if all of these are dated 20 during your assignment period from November 20 21 through February 4, 2021? 22 A. Were they created? I don't know the 23 question that you're asking me. Were they created? 24 I'm sorry? 25 Q. Dated. Do you know if all of these</p> | <p>1 A. No. 2 Q. Why not? 3 A. I was not given that task. 4 Q. Have you considered any additional documents 5 since you signed your report in this case other 6 than Dr. Berger's rebuttal report? 7 A. Yeah, I was going to say his report. No. 8 Q. Okay. I'd like to turn to what's been labeled 9 as page 49 of your report. This is your CV. Do 10 you see that? 11 A. I do. 12 Q. Did you draft this? 13 A. I did. And, in fact, I noticed yesterday 14 this seems to be out of order. That was supposed 15 to be Exhibit A, but evidently when I put it in I 16 dropped it in the wrong position. But, yes, I did 17 draft it. 18 Q. Does this contain a full and accurate 19 description of your expertise and your experience? 20 A. I would say accurate. I wouldn't say full. 21 Q. What is it missing? 22 A. Well, I mean, I've done numerous things 23 over the past 40 years, I guess. I've been 24 involved in social media. It's hard to cover 25 everything in a resume.</p> |
| <p>1 documents were dated during your assignment period? 2 A. By dated I'm not sure what you mean. I 3 could look at a date on the file, but are you 4 asking -- do you really want to know when they were 5 created or? 6 Q. I'm just wondering if any of these 7 documents are outside of your assignment period, if 8 you can recall? 9 A. If -- if the data within them relates to a 10 period outside of my assignment period? 11 Q. Yes. 12 A. I'd have to go back and look at them, but I 13 believe these are -- well, that's -- that's a good 14 question. I don't know. I'd have to go look at 15 the date range shown within the reports. 16 Q. And again, you didn't gather any of these 17 Google analytic metric documents yourself; is that 18 right? 19 A. Correct. 20 Q. Did you review any academic literature in 21 preparing your report in this case? 22 A. I don't believe so unless I cite it in the 23 report. I don't recall doing that. 24 Q. Did you review all of the documents cited 25 in Professor Berger's rebuttal report?</p> | <p>1 Q. How did you curate what to add and what to 2 not add to the CV? 3 A. I don't really know. When I sat down to 4 write it, I wrote things I thought would be 5 appropriate. 6 Q. Appropriate for this case? 7 A. No, this is more of a general CV. I didn't 8 write this specifically for this case. 9 Q. Now, this doesn't list your educational 10 background; is that right? 11 A. No, it doesn't. 12 Q. Did you attend a college or university? 13 A. I did. 14 Q. Where? 15 A. The University of Sheffield in Northern 16 England. 17 Q. When did you graduate? 18 A. 1978. 19 Q. And what was your degree in? 20 A. Geography and geology. And I would note, 21 of course, there was no social media in 1978. 22 Q. Did you attend any schooling after 23 undergraduate -- your undergraduate or university 24 degree? 25 A. I did, the school of life.</p> |

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| <p style="text-align: right;">Page 41</p> <p>1 Q. Did you obtain a master's or a doctoral 2 degree? 3 A. No. 4 Q. Do you consider yourself an expert in the 5 method of content analysis? 6 A. I -- I don't know. I mean, it depends on 7 the context. In certain context, I would say, yes. 8 But if you're talking general sort of academic 9 field, then I would say, no. 10 Q. Have you ever utilized the content analysis 11 tools? 12 A. Sorry. What content analysis tools are you 13 referring to? 14 Q. I guess they're tools that are used in the 15 academic sphere to systematically analyze the 16 nature of content. I'm curious if you've ever used 17 any of those methods or tools? 18 A. Well, I don't know what tools you're 19 referring to. Certainly, for instance, Infegy has 20 content analysis tools built in, which I have used. 21 Q. Have you ever taught any classes using the 22 method of content analysis? 23 A. No. 24 Q. Have you written any academic papers using 25 the method of content analysis?</p> | <p style="text-align: right;">Page 43</p> <p>1 A. Well, the last time I recall a colleague 2 and I did a local -- a local workshop that we set 3 up ourselves and rented some space and advertised 4 and brought people in. 5 Q. Is that in Colorado? 6 A. Yes. 7 Q. Was it a semester course? 8 A. It wasn't an academic course. It was a 9 course for small businesses. 10 Q. Do you consider yourself an expert in 11 marketing? 12 A. I consider myself an expert, and I believe 13 the Federal Rules of Evidence would back me up that 14 I am an expert in digital marketing. 15 Q. And what is your basis for your expertise 16 in digital marketing? 17 A. Well, my 40 years of experience. 18 Q. Anything else? 19 A. Well, the Federal Rules of Evidence list 20 knowledge, skills, training or education. I have 21 the knowledge. I have the skills. I have the 22 experience, 40 years. Training, certain training, 23 but not academic. Education, not academic, but 24 certainly I have that. 25 So under the Federal Rules of Evidence, I</p> |
| <p style="text-align: right;">Page 42</p> <p>1 A. No. 2 Q. Do you consider yourself an expert in 3 information, diffusion or the way that information 4 spreads online? 5 A. Well, I'm certainly testifying in this case 6 as an expert in -- excuse me -- the diffusion of 7 information across social media channels. And I 8 have a 40-year background in social media. 9 Q. Is the basis for your expertise in 10 information diffusion your years of experience? Is 11 there anything else you'd like to add? 12 A. I'm not using the term information 13 diffusion, because I suspect Mr. Berger has told 14 you that's an academic field. However, as I 15 mentioned, I certainly would be regarded under the 16 Federal Rules of Evidence as an expert in the 17 propagation of information across social media. 18 Q. Have you ever conducted research in the 19 field of looking at information propagation over 20 social media? 21 A. Academic research, no. 22 Q. Have you ever taught classes in that field? 23 A. I've taught classes about social media and 24 using social media for business purposes. 25 Q. Where have you taught those classes?</p> | <p style="text-align: right;">Page 44</p> <p>1 am an expert in that field. And I've also been 2 accepted by a number of courts as an expert in that 3 field. 4 Q. In the field of digital marketing? 5 A. Correct. 6 Q. Do you consider yourself an expert in news 7 media? 8 A. I'm not quite sure what you're referring to 9 by that. I have not served as an expert witness in 10 that arena. Well, that's -- some of the cases I've 11 served as an expert witness in have touched on that 12 arena. And I also had a couple of journalism 13 prizes. So I'm not quite sure how to answer that. 14 Q. I'm sorry. Did you say journalism prizes? 15 A. Yes. 16 Q. Do you consider yourself an expert in 17 consumer behavior? 18 A. Again, it depends on the context. I don't 19 put myself out there as a -- a lot of people are 20 consumer behavior experts and in effect survey 21 experts. I don't do consumer behavior surveys. 22 However, I have testified in relation to 23 consumer behavior in the context of the use of, for 24 instance, websites and search engines. 25 Q. Have you ever taught any classes on</p> |

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| <p style="text-align: right;">Page 45</p> <p>1 consumer behavior? 2 A. I haven't taught classes under that rubric, 3 but I've certainly taught classes and written books 4 about consumer behavior in the context of digital 5 marketing. 6 Q. Have you ever written any academic articles 7 about consumer behavior? 8 A. Well, I'm not sure how we define academic 9 articles. I've written in a couple of legal 10 journals related to consumer behavior in relation 11 to paperclip advertising. 12 Q. Do you know if those -- I'm sorry. Go 13 ahead. 14 A. Sorry. I was kind of musing. Other than 15 that -- I've written a lot of articles that one 16 probably wouldn't define as academic, but I've 17 certainly written for both. Magazines and journals 18 over the years, and some of that writing is in the 19 area of digital marketing. 20 Q. Were any of those peer-reviewed academic 21 publications? 22 A. No. 23 Q. Do you consider yourself an expert in 24 consumer perception? 25 A. Well, again, I wouldn't call myself a</p> | <p style="text-align: right;">Page 47</p> <p>1 summarize all of the opinions you intend to offer 2 in this case? 3 A. It does, unless, of course, I'm asked a 4 question that requires some more thought. 5 Q. Sitting here today are you planning to 6 offer any other opinions that are not identified in 7 your report? 8 A. No. 9 Q. Are you intending to perform any analysis 10 that is not set forth in your report? 11 A. No. 12 Q. Are you intending to rely on any data that 13 is not set forth in your report? 14 A. No. 15 Q. Are you intending to change any of your 16 opinions that are set forth in your report? 17 A. No. 18 Q. Are you offering any opinions in this case 19 about the effect of Mr. Lindell's statements about 20 Smartmatic on Smartmatic from February 4, 2021, to 21 the present? 22 A. No. 23 Q. Do you intend to offer an opinion at trial 24 regarding the effect of Mr. Lindell's statements 25 about Smartmatic on Smartmatic from February 4,</p> |
| <p style="text-align: right;">Page 46</p> <p>1 consumer perception expert, but in the arena of 2 digital marketing, I've certainly testified in 3 relation to issues that touch on the perceptions of 4 consumers working on websites or search engines. 5 Q. Have you ever held a professor position in 6 an academic institution? 7 A. No. 8 Q. Have you ever published on any subject in 9 an academic peer review journal? 10 A. Well, two legal journals. I'm not sure 11 they are called peer review. I'm not sure. 12 Q. What legal journals? 13 A. I -- I don't recall the name of it. It had 14 law in the name, but I'd have to look it up I'm 15 afraid. 16 Q. You don't consider yourself a legal expert, 17 do you? 18 A. No, I don't regard myself in the law, per 19 se, no. 20 Q. Approximately how many times have you 21 served as an expert in a defamation case? 22 A. Well, defamation -- and this is going to be 23 kind of a very rough guess -- 15 -- 12, 15. 24 Something like that. I don't know. 25 Q. Okay. Does your expert report fairly</p> | <p style="text-align: right;">Page 48</p> <p>1 2021, to the present? 2 A. No. 3 Q. Are you offering any opinions in this case 4 about Mr. Lindell's statements about voting 5 machines generally from February 4, 2021, to the 6 present? 7 A. No. 8 Q. Do you intend to offer an opinion at trial 9 regarding Mr. Lindell's statements about voting 10 machines from February 4, 2021, to present? 11 A. No. 12 Q. Are you offering any opinions in this case 13 about the online reach of defendants' statements 14 about Smartmatic? 15 A. No. 16 Q. Do you intend to offer an opinion at trial 17 about the online reach of defendants' statements 18 about Smartmatic? 19 A. No. 20 Q. Are you offering any opinions in this case 21 on the extent to which the publications by 22 defendant about Smartmatic were circulated online? 23 A. No. 24 Q. Do you intend to offer an opinion at trial 25 regarding the extent to which the publications by</p> |

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| <p style="text-align: right;">Page 49</p> <p>1 defendants about Smartmatic were circulated online?</p> <p>2 A. No.</p> <p>3 Q. Are you offering any opinions in this case</p> <p>4 about whether a publication by the defendants</p> <p>5 targeted Smartmatic?</p> <p>6 A. No.</p> <p>7 Q. Do you intend to offer an opinion at trial</p> <p>8 regarding whether any publications by defendants</p> <p>9 targeted Smartmatic?</p> <p>10 A. No.</p> <p>11 Q. Are you offering any opinions in this case</p> <p>12 on whether any publications by defendants caused</p> <p>13 Smartmatic any financial loss?</p> <p>14 A. No.</p> <p>15 Q. Do you intend to offer an opinion at trial</p> <p>16 regarding whether publications by defendants about</p> <p>17 Smartmatic caused Smartmatic financial loss?</p> <p>18 A. No.</p> <p>19 Q. Are you offering any opinions in this case</p> <p>20 on whether any publications by defendants caused</p> <p>21 Smartmatic reputational harm?</p> <p>22 A. No.</p> <p>23 Q. Do you intend to offer any opinions at</p> <p>24 trial regarding whether the publications by</p> <p>25 defendants caused Smartmatic reputational harm?</p> | <p style="text-align: right;">Page 51</p> <p>1 subject. It's not something I studied.</p> <p>2 Q. Do you intend to offer an opinion at trial</p> <p>3 regarding whether Smartmatic can still be suffering</p> <p>4 harm as a result of Mr. Lindell's statements about</p> <p>5 Smartmatic?</p> <p>6 A. No.</p> <p>7 Q. Do you have any opinions in this case about</p> <p>8 whether the statements Mr. Lindell has been making</p> <p>9 about Smartmatic are true or false?</p> <p>10 A. No.</p> <p>11 Q. Do you intend to offer any opinion at trial</p> <p>12 regarding whether the statements Mr. Lindell is</p> <p>13 making about Smartmatic are true or false?</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 MS. LEVINE-PATTON: Let's go off the record</p> <p>17 briefly.</p> <p>18 THE VIDEOGRAPHER: We are going off the</p> <p>19 record. 10:33 a.m.</p> <p>20 (Whereupon, a recess was taken at</p> <p>21 10:33 a.m.)</p> <p>22 (Whereupon, the proceedings resumed at</p> <p>23 10:41 a.m.)</p> <p>24 THE VIDEOGRAPHER: We are back on the</p> <p>25 record. 10:41 a.m.</p> |
| <p style="text-align: right;">Page 50</p> <p>1 A. No.</p> <p>2 Q. Are you offering any opinion on the value</p> <p>3 of Smartmatic's brand prior to Mr. Lindell's</p> <p>4 statements about Smartmatic?</p> <p>5 A. Not -- not directly the value of the brand.</p> <p>6 But, obviously, a lot of my report relates to</p> <p>7 Smartmatic's reputation prior to that date.</p> <p>8 Q. But you did not review any documents</p> <p>9 produced by Smartmatic regarding its brand prior to</p> <p>10 Mr. Lindell's statements about Smartmatic; is that</p> <p>11 right?</p> <p>12 A. Correct.</p> <p>13 Q. Is it your opinion that the statements</p> <p>14 Mr. Lindell made about Smartmatic did not cause any</p> <p>15 harm to Smartmatic at all whatsoever?</p> <p>16 A. I -- I have no opinion on that subject.</p> <p>17 Q. And do you intend to offer an opinion at</p> <p>18 trial on the subject of whether the statements</p> <p>19 Mr. Lindell made about Smartmatic caused Smartmatic</p> <p>20 any harm whatsoever?</p> <p>21 A. No.</p> <p>22 Q. Is it your opinion that Smartmatic cannot</p> <p>23 still be suffering harm as a result of Mr. Lindell's</p> <p>24 statements about Smartmatic?</p> <p>25 A. Again, I don't have an opinion on that</p> | <p style="text-align: right;">Page 52</p> <p>1 Q. (By Ms. Levine-Patton) Mr. Kent, I'd like</p> <p>2 to go to page 11 of your report. I'm looking at</p> <p>3 paragraph 29. Please let me know when you're</p> <p>4 there.</p> <p>5 A. Yep, I'm there.</p> <p>6 Q. In this paragraph, you explained you</p> <p>7 searched for Smartmatic using a date range of</p> <p>8 January 1, 2020, through February 4, 2021; is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And you did this using Google Trends, which</p> <p>12 is a service that allows one to ask Google to</p> <p>13 provide a chart showing the use of a specified</p> <p>14 search term over time; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ever look for the term Smartmatic</p> <p>17 on Google Trends after February 4, 2021?</p> <p>18 A. I don't believe I did.</p> <p>19 Q. Why not?</p> <p>20 A. Well, it wasn't within the area I was asked</p> <p>21 to -- you know, the time range I was asked to look</p> <p>22 at.</p> <p>23 Q. You are aware that Smartmatic claims that</p> <p>24 the defendants began their campaign of statements</p> <p>25 against Smartmatic on February 5th, 2021; is that</p> |

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| <p>1 right?</p> <p>2 A. Yes, I'm aware of that.</p> <p>3 Q. Did you perform any analysis using Google</p> <p>4 Trends to determine the relative levels of the</p> <p>5 search term Smartmatic from February 5, 2021, until</p> <p>6 September 22 in 2023 when you served your report in</p> <p>7 this case?</p> <p>8 A. No, I didn't.</p> <p>9 Q. Why not?</p> <p>10 A. Again, it wasn't what I was asked to -- to</p> <p>11 analyze.</p> <p>12 Q. You also used the service Infegy in your</p> <p>13 analysis for this case, is that right?</p> <p>14 A. I did.</p> <p>15 Q. I'd like to look at page 13 of your report,</p> <p>16 paragraph 33. Let me know when you're there.</p> <p>17 A. I'm there.</p> <p>18 Q. Now using Infegy, you found that there was</p> <p>19 a low of 40 posts containing the word Smartmatic on</p> <p>20 November 1st, 2020, right?</p> <p>21 A. Was that 2020? That's a bad -- this is a</p> <p>22 bad -- this is a fuzzy version of my report. It's</p> <p>23 hard to read these diagrams. Is it okay with you</p> <p>24 if I open my report directly?</p> <p>25 Q. Yes. That's okay.</p> | <p>1 Q. I'm now entering what will be marked as</p> <p>2 Exhibit 694. It's the Berger rebuttal report.</p> <p>3 Please let me know when you have that open.</p> <p>4 (Exhibit 694 marked for identification.)</p> <p>5 THE DEPONENT: Yes.</p> <p>6 Q. (By Ms. Levine-Patton) I'm on page 6 of</p> <p>7 his report, paragraph 18. Do you see that?</p> <p>8 A. Paragraph 18. Hold on a second. Yes.</p> <p>9 Q. Now on the last sentence of that paragraph,</p> <p>10 Dr. Berger wrote:</p> <p>11 "Utilizing the same Infegy Atlas search</p> <p>12 tool as Mr. Kent, I find a substantial</p> <p>13 level of online commentary after the start</p> <p>14 of the Lindell campaign against Smartmatic</p> <p>15 that discusses voting machines or their</p> <p>16 manufacturers together with Lindell or his</p> <p>17 company, My Pillow, which demonstrates that</p> <p>18 Mr. Lindell and My Pillow are associated</p> <p>19 with voting machine commentary."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Now in the next paragraph Dr. Berger</p> <p>23 writes:</p> <p>24 Specifically, if I used Infegy Atlas to</p> <p>25 determine whether posts from February 5,</p> |
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| <p>1 A. Because it's much sharper, much more</p> <p>2 differences. Sorry. So we're looking at</p> <p>3 30 -- here we go. That's a lot cleaner. We were</p> <p>4 looking at paragraph 34, yes. Okay. So could you</p> <p>5 repeat your question please.</p> <p>6 Q. Yeah, I'm actually in paragraph 33.</p> <p>7 A. Okay.</p> <p>8 Q. And my question was -- yeah, using Infegy</p> <p>9 you found there was a low of 40 posts containing</p> <p>10 the word Smartmatic on November 1st; is that right?</p> <p>11 A. 40 posts, that's what it says, yes.</p> <p>12 Q. And then there was a high of 95,644 posts</p> <p>13 on November 15; is that right?</p> <p>14 A. Yes.</p> <p>15 Q. And the year is 2020 for both of those</p> <p>16 November dates, right?</p> <p>17 A. Yes.</p> <p>18 Q. Did you use Infegy to search for posts</p> <p>19 containing the word Smartmatic from February 4,</p> <p>20 2021, through the time you served your expert</p> <p>21 report in this case, which was September 22, 2023?</p> <p>22 A. No.</p> <p>23 Q. Why not?</p> <p>24 A. Same answer, because it was out -- outside</p> <p>25 of the task I was given.</p> | <p>1 2021, to October 5, 2023, mentioned voting</p> <p>2 machines or their manufacturers and</p> <p>3 Mr. Lindell or My Pillow. Infegy Atlas</p> <p>4 returned 48,274 posts, with an estimated</p> <p>5 total number of impressions at</p> <p>6 1,628,702,216, and an estimated reach of</p> <p>7 22,220,494,866 according to the Infegy</p> <p>8 Atlas metrics reported by Mr. Kent."</p> <p>9 Do you see that?</p> <p>10 A. According to the metrics reported by me --</p> <p>11 Q. Do you see the section I just read?</p> <p>12 A. I see that, but I don't understand. He</p> <p>13 used Infegy Atlas, but then he's saying reported by</p> <p>14 me.</p> <p>15 Q. With the metrics reported by you using the</p> <p>16 same metrics. Do you understand that?</p> <p>17 A. The same actual data is he saying?</p> <p>18 Q. Total number of impressions he made a reach</p> <p>19 of metrics? Do you understand that?</p> <p>20 A. According to the Infegy metrics. I didn't</p> <p>21 report those numbers though. I just want to be</p> <p>22 clear that this is his analysis. It's not my</p> <p>23 analysis.</p> <p>24 Q. Correct. It's his analysis using the</p> <p>25 metrics of impression and reach. Do you understand</p> |

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| 1 that? | 1 about what they claimed was a stolen |
| 2 A. I don't think that's what it says, but if | 2 election, and about the role of electronic |
| 3 that's how we want to read it I'm fine with that. | 3 voting machines, attention would naturally |
| 4 Q. Now, did you perform any research or | 4 shine on Smartmatic, one of a mere handful |
| 5 analysis to confirm or deny the numbers that | 5 of companies providing electronic-voting |
| 6 Dr. Berger presents in paragraph 19? | 6 devices in the United States." |
| 7 A. I did not. | 7 Do you see that? |
| 8 Q. Do you have any reason to dispute the | 8 A. I do. |
| 9 numbers that Dr. Berger -- that Dr. Berger gives in | 9 Q. Are you aware that the three largest voting |
| 10 paragraph 19? | 10 manufacturers in the United States in 2020 were |
| 11 A. No. | 11 ES&S, Dominion and Hart InterCivic? |
| 12 Q. Did you perform any analysis using Infegy | 12 A. I don't know the relative sizes of these |
| 13 or BuzzSumo to show that Mr. Lindell and My Pillow | 13 companies. I've certainly heard of these companies, |
| 14 are frequently discussed alongside Smartmatic after | 14 along with Smartmatic, but I don't know the |
| 15 February 5th, 2021? | 15 relative sizes. |
| 16 A. No. | 16 Q. So you were not aware that those are the |
| 17 Q. Do you dispute that Infegy and BuzzSumo | 17 three largest voting manufacturers in 2020, |
| 18 show that Mr. Lindell and My Pillow are frequently | 18 correct? |
| 19 discussed online alongside Smartmatic after | 19 A. Well, again, I'm not -- I was not aware of |
| 20 February 5th, 2021? | 20 the specific numbers. I was aware of the |
| 21 A. No. | 21 companies. |
| 22 Q. Do you dispute that Mr. Lindell made | 22 Q. Are you aware that Smartmatic only provided |
| 23 hundreds, if not thousands of negative statements | 23 election technology and services to one county in |
| 24 about Smartmatic and voting machines after | 24 the 2020 US election? |
| 25 February 4, 2021? | 25 A. I believe I have heard that before, yes. |
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| 1 A. I -- I don't dispute it. I have no idea if | 1 Q. Were you aware that Smartmatic only |
| 2 those numbers are correct or not. It's not | 2 provided election technology and services to Los |
| 3 something I looked at. | 3 Angeles County in the 2020 US election? |
| 4 Q. Do you dispute that Mr. Lindell's | 4 A. That certainly sounds familiar. |
| 5 statements about Smartmatic could have influenced | 5 Q. What basis do you have for opining that |
| 6 public perception of Smartmatic after February 4, | 6 attention would naturally shine on Smartmatic in |
| 7 2021? | 7 2020? |
| 8 MR. KACHOUROFF: I'm going to object to the | 8 A. Well, the fact that Smartmatic was being |
| 9 form of all these questions. And plus they are | 9 talked about previously. It's one of the -- well, |
| 10 outside the scope of his expert testimony. | 10 I guess you said the top three. Well, I suspect |
| 11 So go ahead and answer the question, if you | 11 that means Smartmatic's Number 4. So it's one of |
| 12 can. | 12 the handful, and it wasn't only Smartmatic |
| 13 THE DEPONENT: I don't dispute it, but | 13 obviously that was getting attention. |
| 14 again, I don't know what the facts are. | 14 Q. Did you do any analysis or research to |
| 15 Q. (By Ms. Levine-Patton) I'd like to go back | 15 confirm your opinion that attention would naturally |
| 16 to your report. I'm on page 14, paragraph 35. | 16 shine on Smartmatic in 2020? |
| 17 Please let me know when you're there? | 17 A. No, not research based on what naturally. |
| 18 A. 14. Paragraph 35, you said? | 18 In a sense this is a segue. I mean, I think one |
| 19 Q. Yes, sir. | 19 reason attention focused on Smartmatic was its |
| 20 A. Yes, I'm there. | 20 connection to Venezuela probably. |
| 21 Q. You write in the second sentence: | 21 Q. Did you perform any analysis on whether the |
| 22 "There was already a low volume of | 22 statements Mr. Lindell made about Smartmatic |
| 23 derogatory posts about Smartmatic prior to | 23 contributed to anger towards voting machine |
| 24 the rise, as President Trump and those | 24 manufacturers? |
| 25 around him began to talk in a general way | 25 A. No. Again, that was outside of my task. |

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| <p>1 Q. Do you dispute that the statements 2 Mr. Lindell made about Smartmatic contributed to 3 anger towards voting machine manufacturers? 4 MR. KACHOUROFF: Objection to form. 5 THE DEPONENT: I don't dispute it, but 6 again it's not something I've looked at. 7 Q. (By Ms. Levine-Patton) Did you perform any 8 analysis on whether the statements Mr. Lindell made 9 about Smartmatic contributed to fear towards voting 10 machine manufacturers? 11 MR. KACHOUROFF: Objection to form. 12 THE DEPONENT: No. 13 Q. (By Ms. Levine-Patton) Do you dispute that 14 the statements Mr. Lindell made about Smartmatic 15 contributed to fear towards voting machine 16 manufacturers? 17 MR. KACHOUROFF: Objection to form. 18 THE DEPONENT: No. Sorry. The question 19 was do I dispute? That one? 20 Q. (By Ms. Levine-Patton) Yes, sir. 21 A. No, I don't dispute, but again it's not 22 something I really looked at. 23 Q. Did you perform any analysis on whether 24 election officials indicated that Mr. Lindell 25 influenced the public skepticism of the legitimacy</p> | <p>1 A. No. 2 Q. Did you analyze whether public speakers 3 other than Mr. Lindell continued to make statements 4 that Smartmatic stole the election in August 5 of 2021? 6 A. No. 7 MR. KACHOUROFF: I'm going to object. Let 8 me get my objection out. 9 He's already stated that he has not done 10 anything, analysis or has any opinions beyond what 11 he was tasked to do. So you can ask all the 12 questions the way you want. I'm going to object to 13 form on all of them. I'm trying not to interrupt 14 you because I want to get done with this, so. 15 THE DEPONENT: Can we add some months 16 together? 17 MS. LEVINE-PATTON: Thanks, Chris. 18 Q. (By Ms. Levine-Patton) Did you analyze 19 whether public speakers other than Mr. Lindell 20 continued to make statements that Smartmatic stole 21 the election in August of 2021? 22 A. No. 23 Q. Did you analyze whether public speakers 24 other than Mr. Lindell continued to make statements 25 throughout the rest of 2021?</p> |
| <p>1 of the 2020 election? 2 A. No, I didn't. 3 Q. Do you dispute that election officials 4 indicated that Mr. Lindell influenced the public's 5 skepticism of the legitimacy of the 2020 US 6 election? 7 MR. KACHOUROFF: Objection to form. 8 THE DEPONENT: No, I don't dispute that, 9 but again it's outside my -- my task. 10 Q. (By Ms. Levine-Patton) Did you analyze 11 whether public speakers other than Mr. Lindell 12 continued to make statements about Smartmatic 13 stealing the election in April of 2021? 14 A. No. 15 Q. Did you analyze whether public speakers 16 other than Mr. Lindell continued to make statements 17 that Smartmatic stole the election in May 2021? 18 A. No. 19 Q. Did you analyze whether public speakers 20 other than Mr. Lindell continued to make statements 21 that Smartmatic stole the election in June of 2021? 22 A. No. 23 Q. Did you analyze whether public speakers 24 other than Mr. Lindell continued to make statements 25 that Smartmatic stole the election in July of 2021?</p> | <p>1 A. No. 2 Q. Did you analyze whether public speakers 3 other than Mr. Lindell continued to make statements 4 that Smartmatic stole the election in 2022? 5 A. No. 6 Q. Did you analyze whether public speakers 7 other than Mr. Lindell continued to make statements 8 that Smartmatic stole the election in 2023? 9 A. No. 10 Q. Are you aware that Mr. Lindell has 11 continued to make public statements about Smartmatic 12 from February 5th, 2021, to the present? 13 A. I -- I -- I guess I'm aware of some of 14 those statements. I don't know if he continues to. 15 Q. Your analysis does not take any of those 16 statements during that entire time period into 17 account; is that correct? 18 A. Correct. 19 Q. I'd like to go to page 17 of your report, 20 please. The heading in the middle of the page is 21 "Example: The Gateway Pundit." 22 Do you see that? 23 A. I do. 24 Q. You wrote in paragraph 46. 25 "As I show later in this report, the</p> |
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| 1 allegations about Smartmatic before 2 February 5, 2021, were being broadly 3 disseminated to millions of Americans." 4 Do you see that? 5 A. Yes. 6 Q. You then use an example of The Gateway 7 Pundit, which you claim published at least 39 8 articles that mentioned Smartmatic before 9 February 5th, 2021; is that correct? 10 A. Yes. 11 Q. Why did you choose the Gateway Pundit as 12 your example here? 13 A. It's a very popular, major, one might say, 14 conservative website, conservative opinion website. 15 Q. Did you use any methodology when choosing 16 the Gateway Pundit as your exemplar here? 17 A. I didn't use any particular methodology 18 beyond what I just stated. I mean, it's -- I could 19 have picked others. This is just an example of how 20 things spread, and I -- I picked this one again 21 because it's a very popular, well-known, 22 conservative opinion site. 23 Q. Under paragraph 47, you list 39 articles 24 and their links, correct? 25 A. Yes. | 1 MR. KACHOUROFF: Objection to form. 2 THE DEPONENT: Well, I could have a 3 personal view one way or another about that. But 4 I'm not sure that I know what unreliable means in 5 this context. 6 Q. (By Ms. Levine-Patton) Sure. I'm going to 7 introduce an exhibit to help with that. We're at 8 Exhibit 695. Please let me know when you have it 9 in your chat. 10 (Exhibit 695 marked for identification.) 11 THE DEPONENT: I'm downloading it now. 12 Yes, it's open. 13 Q. (By Ms. Levine-Patton) Now this is a 14 Reuters article. Have you ever seen this before? 15 A. I don't -- I don't think so. 16 Q. This was published on December 3, 2021. Do 17 you see that? 18 A. Yes. Yes. 19 Q. Let's look at the first paragraph. It 20 says: 21 "The Gateway Pundit, a far-right news site, 22 has used its Facebook page, with more than 23 630,000 followers, to post bogus stories 24 alleging the 2020 election was stolen from 25 former President Donald Trump. Some |
| 1 Q. What methodology did you use to find these 2 39 articles? 3 A. Well, I -- I think -- we talked about these 4 documents earlier on. I believe I was given some 5 links to some of these articles already. I can't 6 remember in what form. But also I went to Gateway 7 Pundit and actually searched the site looking 8 for -- well, the word Smartmatic. 9 Q. And then you performed a manual review of 10 the website; is that fair? 11 A. Yes, as I found articles that related, what 12 pages that related to Smartmatic, I copied the URL 13 and gathered information about -- about the page. 14 Q. Sorry. To interrupt. 15 I'd like to go to page 20 of your report, 16 paragraph 49. 17 A. Yes. 18 Q. You write: 19 "Indeed, as two of The Gateway Pundit links 20 above show, Smartmatic had been linked to 21 George Soros in 2016 and again in 2018." 22 Do you see that? 23 A. I do. 24 Q. Are you aware that The Gateway Pundit is 25 considered an unreliable website? | 1 commenters responded with threats of 2 violence." 3 Do you see that? 4 A. I do. 5 Q. Are you aware that the Gateway Pundit was 6 considered a far-right news site? 7 MR. KACHOUROFF: Objection to form. 8 THE DEPONENT: I think I was aware that 9 some people regard this site as far-right. 10 Q. (By Ms. Levine-Patton) Were you aware that 11 the Gateway Pundit has been accused of posting 12 bogus stories about the 2020 US election? 13 MR. KACHOUROFF: Same objection. Objection 14 to form. 15 THE DEPONENT: So what was -- how did you 16 phrase that again? Was I aware? 17 Q. (By Ms. Levine-Patton) That the Gateway 18 Pundit has been accused of posting bogus stories 19 about the 2020 US election? 20 A. I'm not sure if I've seen such accusations 21 myself, but certainly I wouldn't be surprised if 22 they had been accused of such things. 23 Q. Let's look at the third paragraph of this 24 Reuters article. It says: 25 "For years, Facebook has imposed sanctions |

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| <p>1 on Gateway Pundit's account to limit the 2 spread of its misinformation. But Gateway 3 Pundit still uses its Facebook page to 4 amplify its reporting and raise money. The 5 page features a prominent appeal asking 6 readers to buy subscriptions to support its 7 battle for survival."</p> <p>8 Do you see that?</p> <p>9 A. I do.</p> <p>10 Q. Were you aware when you drafted your expert 11 report in this case that The Gateway Pundit had 12 been spreading misinformation for years?</p> <p>13 MR. KACHOUROFF: Objection to form.</p> <p>14 THE DEPONENT: I was not actually aware of 15 Gateway Pundit for years before. I may have run 16 across Gateway Pundit once or twice before doing 17 this report, but I certainly wasn't particularly 18 familiar with the site.</p> <p>19 Q. (By Ms. Levine-Patton) So you were not 20 aware that The Gateway Pundit had been spreading 21 misinformation when you chose to use it as an 22 exemplar in your expert report; is that right?</p> <p>23 MR. KACHOUROFF: Objection to form again.</p> <p>24 THE DEPONENT: No, I don't think that's 25 quite correct. I think some of what I</p> | <p>1 A. I do.</p> <p>2 Q. Did you do any analysis to determine how 3 the public reacted to Gateway Pundit publications?</p> <p>4 A. I didn't.</p> <p>5 Q. Did you do any analysis to determine 6 whether the public was persuaded by the Gateway 7 Pundit, if at all?</p> <p>8 A. No, but I don't see how either of these 9 issues are related to the task I was given.</p> <p>10 Q. Did you do anything to evaluate features of 11 the Gateway Pundit publication to determine whether 12 or not they may have been persuasive?</p> <p>13 A. I didn't do such an analysis, no.</p> <p>14 Q. Do you know anything about the impact that 15 Gateway Pundit publications would have on public 16 sentiment about Smartmatic prior to the 2020 17 election?</p> <p>18 A. Sorry. Could you repeat that? Do I have 19 -- do I --</p> <p>20 Q. Know anything about the impact that the 21 Gateway Pundit publications had on public sentiment 22 about Smartmatic prior to the 2020 election?</p> <p>23 A. Well, I didn't do any analysis into that 24 issue. I can certainly guess what the reaction 25 would be.</p> |
| <p>1 reported -- some of these articles that I listed, 2 for instance, I suspect were misinformation.</p> <p>3 Q. (By Ms. Levine-Patton) I'd like to look at 4 the third paragraph from the bottom of the article 5 in front of you.</p> <p>6 A. Sorry. Third from the bottom. The last 7 page?</p> <p>8 Q. Yes.</p> <p>9 A. "Facebook has long recognized..."?</p> <p>10 Q. Yes, sir.</p> <p>11 A. Okay.</p> <p>12 Q. It says:</p> <p>13 "Facebook has long recognized Gateway 14 Pundit as a source of false and divisive 15 content. A July 2019 internal report on 16 potential misinformation and polarization 17 risks listed the site as one of Facebook's 18 common misinfo offenders. The report was 19 among a cache of documents provided to the 20 U.S. Securities and Exchange Commission and 21 Congress by Frances Haugen, a former 22 Facebook product manager who left the 23 company in May and has been leading a 24 public critic of its practices."</p> <p>25 Do you see that?</p> | <p>1 Q. Sitting here today, do you think that 2 Gateway Pundit was a reliable exemplar for you to 3 use in your expert report?</p> <p>4 A. I'm not sure what you mean by reliable 5 exemplar. I think it was a good exemplar for 6 purposes of my report. I think by reliable I 7 suspect you mean, was the information truthful, but 8 maybe I'm miscorrecting you. I'm not sure what you 9 mean by reliable.</p> <p>10 Q. I'd like -- sorry. I'd like to go to 11 page 38 of your report. Please let me know when 12 you're there.</p> <p>13 A. Did you say page 38?</p> <p>14 Q. Yes, sir, Section D.</p> <p>15 A. I'm there.</p> <p>16 Q. In this section you opine that there was 17 controversial content about Smartmatic before the 18 2020 US election; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Now, I'd like to look at paragraph 100. Do 21 you see that?</p> <p>22 A. I do.</p> <p>23 Q. You write:</p> <p>24 "While this case revolves around 25 allegations that Smartmatic was involved in</p> |
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| <p style="text-align: right;">Page 73</p> <p>1 voter fraud during the 2020 Presidential 2 Election, one might consider these 3 allegations as a continuation of a much 4 broader public debate that started years 5 earlier, involving not just Smartmatic but 6 all the companies that provide electronic 7 voting machines for use in elections in the 8 United States, also including Dominion 9 Voting Systems Corporation and Election 10 Systems Software, LLC; ES&S."</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. When you say in that paragraph, "one might 14 consider," who are you talking about?</p> <p>15 A. I'm talking about anybody who's looking at 16 the data. This is a simple little segue. I'm not 17 sure why -- is it Dr. Berger or Mr. Berger, why he 18 focused on this word "continuation," but one is 19 somebody who looks at the evidence and considers 20 it.</p> <p>21 Q. Is it your opinion that it was such a 22 continuation?</p> <p>23 A. I believe it was.</p> <p>24 Q. And what is your basis for that belief?</p> <p>25 A. Well, I mean, stories don't come out of</p> | <p>1 obviously used the search tools. So they were 2 analyzing content.</p> <p>3 So I'm not quite sure what you're referring 4 to. Dr. Berger didn't use any particular tools to 5 show -- to prove there was no continuation. So I'd 6 be interested to know what those tools should have 7 been, and I think he was using the same analysis.</p> <p>8 Same methodology.</p> <p>9 Q. Is it your opinion that commentary about 10 the risk of using electronic voting machines is the 11 same as commentary stating that Smartmatic fixed, 12 rigged and stole the 2020 election?</p> <p>13 A. Of course it's not the same, but it's the 14 preparation for that commentary. You're 15 saying that -- a lot of people were saying, it was 16 both Democrats and Republicans saying that we had 17 issues with these voting machines and they can be 18 used in a corrupt manner.</p> <p>19 And so if you have that name out there 20 floating around, it's not hard to take it and 21 ignite the next phase, which is to actually accuse 22 somebody of doing something.</p> <p>23 Q. And what methodology or basis are you using 24 to opine that that was preparation for the same -- 25 for the commentary specifically about Smartmatic?</p> |
| <p style="text-align: right;">Page 74</p> <p>1 nowhere. There's all this vitriol directed at 2 these companies. It didn't just occur someday. 3 It's something that builds over time. And if you 4 look at the historical record, certain things were 5 being said in the past. It's like -- I can't 6 remember what phrase. I think I used the phrase 7 kindling in my report. It's burning away slowly 8 and suddenly ignite.</p> <p>9 Q. And what expert methodology did you use to 10 come to the opinion that you just espoused?</p> <p>11 A. Well, it's a methodology from examining 12 statements that are being made. I mean, one might 13 ask -- is it Dr. Berger, by the way? I don't want 14 to be rude to him.</p> <p>15 Q. Yes.</p> <p>16 A. One might ask what analysis Dr. Berger used 17 to show that there was no continuation. Well, I 18 used the same analysis, the same form of analysis 19 that he did, which is a sort of puristic analysis.</p> <p>20 You can look at the evidence and you can see what 21 happened.</p> <p>22 Q. Did you use any automated content analysis 23 tools when you looked at the evidence to see what 24 happened?</p> <p>25 A. Related content analysis tools. I</p> | <p>1 A. Well, I'm not saying -- and I don't know if 2 you intended this. By the word preparation, I'm 3 not suggesting there was some plan by people 4 preparing the ground. I'm simply saying it's like 5 a forest fire. Nobody is planning for the forest 6 fire, but the forest dries out and becomes 7 ignitable.</p> <p>8 And so we had a story going on for several 9 years with a lot of prominent people worrying and 10 making comments about the dangers of electronic 11 voting, and that just provides the dry -- the dry 12 underbrush that can be ignited.</p> <p>13 Q. Is that just your common sense that you're 14 using to determine that that created an underbrush 15 that could be ignited?</p> <p>16 A. Well, I know you're not supposed to use the 17 word common sense. At the end of the day, to a 18 great degree it is common sense. You can look at 19 the discussion over time.</p> <p>20 You've got the discussion of dangers of 21 electronic voting. You've got a discussion of 22 Smartmatic specifically being accused of voter 23 fraud in Venezuela and perhaps the Philippines. 24 You've got -- and then you have an extension. Over 25 time something grows. We have the election here,</p> |

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| <p>Page 77</p> <p>1 and people start pointing at the electronic voting 2 machines. 3 The pointing did not begin with the 4 election. That's the point. The pointing began 5 several years earlier. 6 Q. Are you aware that Smartmatic did not enter 7 the US market between 2006 and 2019? 8 A. I have no idea the chronology of their 9 operations. 10 Q. I'd like to draw your attention to page 39 11 of your report, Section E. 12 A. Yes. 13 Q. Here you explain that your tool Infegy 14 Atlas found that in August of 2019, 84 percent of 15 the posts mentioning Smartmatic were from 16 Argentina; is that correct? 17 A. Yes. 18 Q. Do you know whether perceptions differ 19 regarding elections in the United States versus in 20 Argentina? 21 A. That's such a broad question. I wouldn't 22 know how to answer it. Obviously, there are local 23 differences. I think some perceptions related to 24 voting the same world over. People want to have 25 their votes counted and they want the vote counting</p> | <p>Page 79</p> <p>1 discussions about Smartmatic in the United States 2 in 2020? 3 A. Well, I think I just answered that. Those 4 -- those events in Argentina did find their way 5 through social media to the United States and to 6 conservative websites in the United States. So 7 obviously there was some kind of connection. 8 There's no -- there's no firewall between 9 these Argentinian posts and the United States -- 10 conservative websites in the United States. 11 Q. Which conservative websites are you 12 referring to that Argentinian posts flowed to in 13 the United States? 14 A. Well, I suspect that -- I don't have it in 15 front of me right now. I'm pretty sure you can 16 find information about what happened in Argentina, 17 certainly what happened in Venezuela, on Gateway 18 Pundit, for instance. I know for a fact Gateway 19 Pundit was talking about Venezuela. 20 Q. Any other websites that you can recall? 21 A. Not that I can recall right now. I'm sure 22 if you gave me time I could find them. 23 Q. Do those appear in your expert report? 24 A. Well, certainly with the Venezuela 25 connection they do, yes.</p> |
| <p>Page 78</p> <p>1 to be fair. So in that sense perceptions are very 2 similar. Obviously, you have individual 3 differences, different candidates and different 4 ways to handle the votes. So I'm not exactly sure 5 how to answer that question. 6 Q. Well, what is your basis for claiming that 7 discussion about Smartmatic in Argentina in 2019 8 has any relevance to discussions about Smartmatic 9 in the United States in 2020? 10 A. Well, again, I'm reporting what was going 11 on. I'm not drawing a straight line from a 12 particular post in Argentina to any particular 13 statement in the United States. But the -- social 14 media is obviously international. These posts do 15 spread. 16 People in the United States do see posts 17 from other countries. This was -- probably had 18 very minor impact at the time in the United States, 19 but the -- the information -- certainly the 20 information appeared later in the conservative 21 press. So somehow that information did flow from 22 Argentina to the United States. 23 Q. Did you do any research, academic or 24 otherwise, to determine how public perception in 25 Argentina in 2019 would have any relevance to the</p> | <p>Page 80</p> <p>1 Q. I'm talking about the Argentina 2019 2 commentary specifically. Do those appear in your 3 expert report and how they flowed to other 4 conservative websites in 2020? 5 A. I don't recall if they do. I suspect 6 because you're asking that question they don't. 7 Q. I'd like to go to paragraph 105 on page 40 8 of your report, please. 9 A. 105. Yes, I'm there. 10 Q. The paragraph says: 11 "There was, at the time in Argentina, 12 accusations that the Smartmatic system 13 could be used for electoral fraud. The 14 Frente de Todos political group claimed 15 that the Smartmatic system could be used to 16 interfere with election data, and that we 17 fear the government will try to interfere 18 with the count using the system." 19 Do you see that? 20 A. I do. 21 Q. Do you believe that Argentinian comments 22 about the government interfering in an election 23 through Smartmatic software are the same or similar 24 to Mr. Lindell's claims that Smartmatic fixed, 25 rigged and stole the 2020 US election?</p> |

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| <p style="text-align: right;">Page 81</p> <p>1 A. Well, obviously -- I guess I don't 2 understand the question, because obviously there's 3 a similarity. In both cases there's an accusation 4 that Smartmatic machines were used for electoral 5 fraud.</p> <p>6 Q. And what is your basis or methodology for 7 that opinion?</p> <p>8 A. I can read.</p> <p>9 Q. So essentially common sense?</p> <p>10 A. I don't know that it's common sense. If 11 you read two different statements and they both 12 refer to electoral fraud using Smartmatic machines, 13 one can quite clearly see they are related, or at 14 least they cover the same ground.</p> <p>15 Q. How do you define electoral fraud?</p> <p>16 A. Well, I think in the context we're talking 17 about, electoral fraud would be the use of these 18 electronic voting machines in some way to change 19 the votes of enough people to change the outcome of 20 an election.</p> <p>21 Q. Would you agree with me that there's a 22 difference between allegations on one hand of a 23 government interfering with a vote count, and on 24 the other hand of an entire election being rigged 25 by an election technology company?</p> | <p style="text-align: right;">Page 83</p> <p>1 Q. What analysis did you perform to determine 2 that the low level of comments from 2018 to 2020 3 connecting Chavez with Smartmatic were a quote, 4 unquote, kindling for the 2020 US election 5 statements Mr. Lindell made about Smartmatic?</p> <p>6 A. I used the same analysis, methodology that 7 Dr. Berger did. Reading a post and coming to a 8 conclusion. The post discussed Hugo Chavez. They 9 discuss the Venezuelan relationship to Smartmatic 10 to Venezuela and in particular -- a particular 11 Venezuelan election, and those stories turn up in 12 conservative media a couple years later.</p> <p>13 There is no firewall between these social 14 media systems.</p> <p>15 Q. Did you isolate the geographic regions 16 where Hugo Chavez was being discussed in 17 conjunction with Smartmatic?</p> <p>18 A. I don't believe I did.</p> <p>19 Q. In the next section, on page 41, Section G, 20 you explain that Smartmatic is often conflated with 21 Dominion voting systems; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And that claim is based on 49 posts that 24 Infegy found, correct?</p> <p>25 A. No.</p> |
| <p style="text-align: right;">Page 82</p> <p>1 MR. KACHOUROFF: Objection to form.</p> <p>2 THE DEPONENT: Well, obviously in the way 3 you put it there, yes, there's a difference. But 4 at the heart, at the end of it, is the use of 5 electronic voting machines to change the results of 6 an election.</p> <p>7 Q. (By Ms. Levine-Patton) I'd like to look at 8 Section F. We're still on page 40 of your report. 9 In this section you explain that from September 22, 10 2018, through October 31st, 2020, Smartmatic was 11 mentioned online in conjunction with Hugo Chavez; 12 is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And you made that determination using your 15 Infegy tool, right?</p> <p>16 A. Correct.</p> <p>17 Q. Now if we go to page 41, paragraph 110, you 18 write:</p> <p>19 "Thus, there was clearly commentary 20 regarding Smartmatic's relationship with 21 Hugo Chavez predating the 2020 election in 22 the US. It was at a relatively low level, 23 but it served as a kindling of a sort."</p> <p>24 Do you see that?</p> <p>25 A. I do.</p> | <p style="text-align: right;">Page 84</p> <p>1 Q. Well, let's look at paragraph 112. You say 2 in the second sentence: 3 "Infegy found 49 such posts and estimated 4 that the full number would be around 5 1,094."</p> <p>6 Do you see that?</p> <p>7 A. That was before the 2020 election. Let's 8 go back to paragraph 111. I'm saying Smartmatic is 9 often conflated with Dominion voting system, and it 10 is. Again, in the conservative media -- I mean, in 11 social media you see this commentary a lot, that 12 these two companies are related.</p> <p>13 Q. And you make that opinion that it is 14 conflated based on data you gathered from 15 September 22, 2018, to October 31st, 2020, correct?</p> <p>16 A. No, that's not what my report says.</p> <p>17 Q. What other data and time period do you use 18 to come to that conclusion?</p> <p>19 A. Well, I didn't provide citations for this. 20 I probably should have, but it's so obvious and so 21 common that I didn't. Perhaps I should have done 22 that.</p> <p>23 But what I'm saying is there is this 24 conflation, then, based on this conflation, I went 25 back -- to examine earlier conflation, I went back</p> |

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| <p style="text-align: right;">Page 85</p> <p>1 to the previous years to see if people -- if this 2 commentary existed back then. But I'm not saying 3 that those 49 posts are what I base the conflation 4 on. It's I'm sure you're aware it's a very common 5 statement.</p> <p>6 Q. What else did you base that conflation on 7 other than the data that you list in your report?</p> <p>8 A. Which data in my report are you referring 9 to? Because I don't cite to any particular data 10 when I made that statement.</p> <p>11 Q. Well, what I asked you -- I'm looking at 12 the realtime. What other data and time period do 13 you use to come to that conclusion, the conclusion 14 being that Smartmatic and Dominion are currently 15 conflated.</p> <p>16 The data that you said in your report was 17 from 2018 through October 31, 2020, and you said, 18 well, and you say I didn't provide citations; I 19 probably should have. I'm asking you what data 20 should you have provided citations for?</p> <p>21 A. The data -- well, I could have linked to 22 various social media posts. I could have linked to 23 Gateway Pundit. I could have linked to any number 24 of different sites where people are conflating 25 Dominion with Smartmatic.</p> | <p style="text-align: right;">Page 87</p> <p>1 Paragraph 112 does actually support it to some 2 degree, but in the narrative here I'm not using 3 paragraph 112. I'm not saying because of 4 paragraph 112 we can see this conflation. 5 I'm saying we can see this conflation, and 6 if you go back in time you can see there it's still 7 at a low level of conflation back there -- back 8 then.</p> <p>9 Q. Did you do any systematic analysis using 10 the Infegy tool or any other tool of the social 11 media Gateway Pundit and conservative blogs you 12 just mentioned after October 31st, 2020, to 13 determine that Dominion and Smartmatic were 14 conflated?</p> <p>15 A. I -- I did not. I made the mistake of 16 basing it on quite clear -- basing it on the fact 17 that it's quite clear this was going on. My 18 mistake, I should have supported it.</p> <p>19 Q. Now, have you considered that of the 49 20 posts you cite in paragraph 112 -- well, first of 21 all, did you perform a manual review of those 49 22 posts?</p> <p>23 A. I did.</p> <p>24 Q. And how many of the 49 posts were referring 25 to Dominion and Smartmatic simultaneously because</p> |
| <p style="text-align: right;">Page 86</p> <p>1 But just to be clear again, paragraph 112 2 is not what I was using as support for the first 3 sentence of paragraph 111.</p> <p>4 Q. Okay. There's a lot there I want to break 5 down.</p> <p>6 First of all, if paragraph 112 is not the 7 support that you're using for the first sentence of 8 paragraph 111, what is the basis for the first 9 sentence of paragraph 111?</p> <p>10 A. I think I just answered that question. One 11 can find numerous -- I see my mistake here. It's 12 such a common conflation, such a common statement 13 that I assumed everybody would understand it, and I 14 didn't need to support it. But evidently I should 15 have supported it.</p> <p>16 I've answered that question. I can -- you 17 can find many, many, many examples of people in 18 social media and people on conservative blogs and 19 so on making this link between the two companies.</p> <p>20 Q. Okay. So you've mentioned now three 21 sources that you used as support for paragraph 111 22 outside of what is in your report. Those three 23 sources are social media, blogs and Gateway Pundit. 24 Is there anything else you'd like to add?</p> <p>25 A. Well, you're going to like this one.</p> | <p style="text-align: right;">Page 88</p> <p>1 they are competitors?</p> <p>2 A. That I don't know. I just want to make one 3 point though. Yes, Infegy found 49 posts, but 4 remember Infegy extrapolates and estimates the full 5 number. It believed there's probably somewhere 6 around 1100 such posts.</p> <p>7 Q. But you were unable to review the 1,094 8 posts because those were just an estimate, right?</p> <p>9 A. Yeah, those are an extrapolation based on 10 what Infegy knows about the web.</p> <p>11 Q. Thank you. Yeah, I want to focus on the 49 12 you were able to manually review right now.</p> <p>13 Do you know how many of those 49 were 14 referring to Dominion and Smartmatic simultaneously 15 because they're in the same industry?</p> <p>16 A. I don't know offhand without going back to 17 check. And I know you have a theme of questions 18 right now. Unfortunately, I've been drinking too 19 much water, and would love to have a break fairly 20 soon.</p> <p>21 Q. Sure. Yeah, let's take a break. That's 22 fine.</p> <p>23 THE VIDEOGRAPHER: We are going off the 24 record. 11:29 a.m.</p> <p>25 (Whereupon, a recess was taken at</p> |

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| <p style="text-align: right;">Page 89</p> <p>1 11:29 a.m.) 2 (Whereupon, the proceedings resumed at 3 11:35 a.m.) 4 THE VIDEOGRAPHER: We are back on the 5 record. 11:35 a.m. 6 Q. (By Ms. Levine-Patton) Mr. Kent, before we 7 went off the record, we were looking at 8 paragraph 111 and 112 of your report. And you were 9 talking about 49 Infegy posts that you found from 10 September 22, 2018, through October 31, 2020, 11 conflating Dominion and Smartmatic. 12 Do you recall that conversation? 13 A. I do. 14 Q. And one more question about that. 15 Do you know how many of those 49 posts 16 referring -- were referring to Dominion and 17 Smartmatic simultaneously because they were being 18 conflated or intertwined in a negative or 19 defamatory way? 20 A. I don't know without going back to look at 21 that data. 22 Q. And did you provide each of those 49 posts 23 in the -- in your supplemental materials for your 24 expert report? 25 A. Well, I believe so. The citation is to --</p> | <p style="text-align: right;">Page 91</p> <p>1 articles and the videos or whatever. Frequently, I 2 don't have a specific definition right now 3 unfortunately. 4 Q. So then you list bullet points of articles, 5 which you say are a few examples of National Press 6 discussing this issue and disseminating information 7 about it online; is that right? 8 A. Yes. 9 Q. How did you find the articles for this 10 list? 11 A. I'm pretty sure I used a Google search. 12 Q. Did you -- 13 A. Probably -- 14 Q. I'm sorry. Go ahead. 15 A. Probably a Google search and then, you 16 know, following threads, following links from 17 article to article and so on. 18 Q. Did you randomly select these articles from 19 a Google search? 20 A. I don't believe I randomly selected them. 21 I think as I found them I added them to the list 22 and eventually stopped looking. 23 Q. Do you know approximately how many articles 24 you read to come to this list? 25 A. Well, about 16.</p> |
| <p style="text-align: right;">Page 90</p> <p>1 well, it's footnote 92, Infegy, Dominion post text 2 dot XLSX. So it is presumably in that file. 3 Q. So it's your testimony that you provided 4 that file to counsel; is that right? 5 A. I did. 6 Q. Okay. I'd like to go to page 42, Section H 7 of your report, the voting machine debate. Do you 8 see that? 9 A. I do. 10 Q. In this section you explain that prior to 11 the 2020 US election, there was a debate for 12 several years in the US concerning the use of 13 electronic voting machines; is that right? 14 A. Yes. 15 Q. Now on paragraph 114, in the second 16 sentence, you write: 17 "This debate was not focused solely on 18 Smartmatic; it involved all and any 19 voting-machine companies, though certainly 20 Smartmatic was frequently named." 21 Do you see that? 22 A. I do. 23 Q. What is your definition of "frequently 24 named"? 25 A. Well, named means the name appeared in the</p> | <p style="text-align: right;">Page 92</p> <p>1 Q. Did you read any more than the 16 when 2 putting this list together? 3 A. I think if I read more I would have added 4 them to the list. 5 Q. What basis did you use when you chose to 6 add an article to the list? 7 A. I found it. 8 Q. Did you use Smartmatic as a search term 9 when looking for these articles? 10 A. I don't -- I don't believe so. I think I 11 was just looking for -- well, electronic voting 12 machines probably is what I was searching on. I 13 don't recall exactly. 14 Q. Do you know how many of these articles 15 mentioned Smartmatic? 16 A. No, not offhand without checking. 17 Q. Would it surprise you to learn that only 18 four of them mention Smartmatic? 19 MR. KACHOUROFF: Objection to form. 20 THE DEPONENT: Well, it wouldn't surprise 21 me, but again I don't believe I did a specific 22 Smartmatic search. 23 Q. (By Ms. Levine-Patton) What methodology 24 did you use to arrive at the conclusion that 25 Smartmatic was frequently named in the debate about</p> |

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| 1 voting machines in the US prior to the 2020 2 election? 3 A. It was probably as I noticed it being 4 mentioned. There was no particular methodology 5 beyond that. 6 Q. I'd like to look at the third bullet point 7 that you cite here. We're going to introduce 8 Exhibit 696. Please let me know when you have it 9 up. 10 (Exhibit 696 marked for identification.) 11 THE DEPONENT: Yes. 12 Q. (By Ms. Levine-Patton) This article is 13 entitled "Voting machines and election systems, a 14 quick look." 15 Do you recall locating this article? 16 A. It certainly looks familiar and it's in my 17 list so I obviously found it. 18 Q. Do you remember how you found this one and 19 added it to your bullet point list? 20 A. Well, it would have been a Google search or 21 following from -- so if I had opened one of the 22 other articles and it linked over to here, I may 23 have found it that way. 24 Q. Now this was published on August 3, 2017, 25 correct? | 1 optical-scan machines that record votes 2 electronically but leave a paper record. 3 The machines used in Venezuela, supplied by 4 Smartmatic, produce a paper record for each 5 voter." 6 Do you see that? 7 A. I do. 8 Q. Now, I'd like to skip down to the second 9 page of the article under the heading "How could 10 tampering take place?" 11 Are you there? 12 A. Yes. 13 Q. It says: 14 "Tampering is easiest when a voting system 15 leaves no paper trail. That's one reason 16 researchers want the U.S. to move entirely 17 to paper ballots. Paper can't be remotely 18 hacked, and makes it possible to audit 19 election results after the fact." 20 Do you see that? 21 A. I do. 22 Q. Now I'd like to go to the last section of 23 the article under the heading, "Why would a voting 24 machine company publicly acknowledge tampering?" 25 Do you see that? |
| Page 94 | Page 96 |
| 1 A. Yes. 2 Q. I'd like to look at the first paragraph. 3 It says: 4 "Digital voting machines are in the 5 spotlight in Venezuela, where the head of 6 Smartmatic, a maker of election systems 7 used in the country's tumultuous-assembly 8 election, said Wednesday that the official 9 turnout figure had been tampered with. The 10 company's CEO said the count was off by at 11 least one million votes, possibly in either 12 direction." 13 Do you see that? 14 A. I do. 15 Q. The article then goes on to talk about the 16 biggest US player, ES&S. Do you see that? 17 A. Lower down, yes. 18 Q. The articles also mentioned the company 19 Diebold or Dibold? 20 A. Yeah. 21 Q. Now, I'd like to go to the last paragraph 22 on the first page. It says: 23 "Although paperless machines that are 24 essentially impossible to audit are still 25 used in 14 U.S. states, the trend is toward | 1 A. I do. 2 Q. It says: 3 "Blowing the whistle on a client might not 4 seem very good for business. But an 5 election-systems company might see no other 6 option if it believes a government is 7 making unrealistic claims about election 8 turnout, as appears to be the case with 9 Smartmatic in Venezuela." 10 Do you see that? 11 A. Yes. 12 Q. Now other than the places we've already 13 talked about, and I read aloud, does this article 14 mention Smartmatic at all? 15 A. Well, it mentions it several times. 16 Q. Other than the places we've already 17 discussed? 18 A. I don't know. I'd have to read the rest of 19 the article to -- I'm not sure your point. You 20 mentioned Smartmatic. We've seen it in here. I 21 haven't read certain pieces. I don't know if they 22 mention Smartmatic in those pieces. 23 Q. Well, please go ahead and look it over. 24 I'm trying to get a sense of whether there's any 25 negative mentions of Smartmatic in the article. |

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| <p style="text-align: right;">Page 97</p> <p>1 A. Well, I'll just do a search of Smartmatic. 2 Okay. So it appears four times. 3 Q. Are any of the four times it appears 4 separate from the times we just read aloud 5 together? 6 A. I don't think so. I think these are the 7 ones we looked at together. 8 Q. Does this article suggest that Smartmatic 9 fixed, rigged, or stole the 2017 election in 10 Venezuela? 11 A. No, it doesn't. 12 Q. Does it suggest that Smartmatic was 13 involved in or supporting fraud or election 14 tampering? 15 A. No. 16 Q. Does it otherwise support allegations that 17 Mr. Lindell has made about Smartmatic since 18 February of 2021? 19 MR. KACHOUROFF: Objection to form. 20 THE DEPONENT: Well, it depends what you 21 mean by support. I think -- well, clearly some of 22 these conservative let's say websites believe what 23 happened in Venezuela does support their 24 accusations. 25 Q. (By Ms. Levine-Patton) Are you aware that</p> | <p style="text-align: right;">Page 99</p> <p>1 talking about the voting machine debate? 2 A. Well, I wouldn't call it National Press, 3 but it's certainly part of the debate. 4 Q. Well, your descriptor in the last sentence 5 of paragraph 114 for each of these bullet points is 6 a few examples of National Press discussing this 7 issue and disseminating information about it 8 online. 9 My question is how does Exhibit 697 fit 10 that description? 11 A. Well, I guess it doesn't directly fit that 12 description. Certainly it would have ended up in 13 the press, as I said I know there's a lot more out 14 there that I could have found if I continued 15 searching. 16 Q. Does this report suggest that Smartmatic 17 fixed, rigged or stole an election? 18 A. No, but I don't describe it as such. 19 Q. Does this report suggest that Smartmatic 20 was involved in or supporting fraud or election 21 tampering? 22 A. No. Again, I don't describe -- this 23 section of my report is not related to that. 24 Q. Feel free to control or search in this 25 document. But does this report name the company</p> |
| <p style="text-align: right;">Page 98</p> <p>1 Smartmatic fled Venezuela in 2017 because it blew 2 the whistle on the Venezuelan government for 3 attempting to cheat? 4 A. I'm not sure of the specifics of when it 5 left, but certainly that wouldn't surprise me. 6 Q. I'd like to go back to your report. In 7 paragraph 114 you say: 8 "These are a few examples of National Press 9 discussing this issue and disseminating 10 information about it online." 11 Is that correct? 12 A. I beg your pardon. Where were we? 114? 13 Q. Yes, sir, it's the last paragraph, sentence 14 of 114. 15 A. Yes, okay. 16 Q. I'm going to introduce Exhibit 697, which 17 is one of the documents that you bullet point on 18 page 43 under paragraph 114. Please let me know 19 when you have it up. 20 (Exhibit 697 marked for identification.) 21 THE DEPONENT: Yes, I have it. 22 Q. (By Ms. Levine-Patton) Do you recognize 23 this document? 24 A. Yes, it looks familiar. 25 Q. Is this an example of the National Press</p> | <p style="text-align: right;">Page 100</p> <p>1 Smartmatic at all? 2 A. I don't believe it does. No, I don't think 3 it does. 4 Q. Does it otherwise support the allegations 5 that Mr. Lindell has made about Smartmatic since 6 February of 2021? 7 A. Well, I -- I don't know what support means. 8 Mr. Lindell points to all sorts of different 9 information and evidence to support his beliefs. 10 So I don't know if he would point to something in 11 here or not. 12 Q. Have you reviewed the statements that 13 Mr. Lindell makes about Smartmatic? 14 A. No, I haven't reviewed them. Again, 15 remember this is -- this document is discussing 16 potential fraud being carried out through 17 electronic voting machines. So it's not 18 particularly about Smartmatic, it's about 19 electronic voting systems in general. And 20 Mr. Lindell might well use something like this to 21 support his beliefs. 22 Q. Well, it's a third-party consultant public 23 report on security testing of a voting system; is 24 that right? 25 A. I believe so.</p> |

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| <p style="text-align: right;">Page 101</p> <p>1 Q. Are you aware that third-party consultants 2 and other companies frequently test voting machines 3 for vulnerabilities to make sure that they are safe 4 in advance of an election?</p> <p>5 A. I do understand there's testing. Some of 6 these companies pointed out vulnerabilities, but I 7 do understand there's testing.</p> <p>8 Q. And this report is a public version of a 9 report that was done to show that the systems are 10 secure in advance of an election; is that right?</p> <p>11 A. I suppose in a general sense we could say 12 that. I don't know if it was done close to a 13 particular election, what was it December 2019. 14 So I mean any such testing could be described 15 as -- how did you put it, in advance of an 16 election?</p> <p>17 Q. But you use this as an example, quote, 18 National Press discussing and disseminating 19 information about it online, unquote; is that 20 right?</p> <p>21 A. Well, obviously, we have an issue with the 22 term National Press. But it is part of the debate 23 related to the vulnerabilities of voting machines. 24 I mean, I assume you are not suggesting there are 25 no vulnerabilities. I'm simply pointing out there</p> | <p>1 vulnerabilities. So I believe it is related to 2 this issue.</p> <p>3 Q. Is it your opinion that this list of 4 articles was support for Mr. Lindell's statements 5 that he made starting in February 2021 about 6 Smartmatic?</p> <p>7 A. I don't know if Mr. Lindell has seen any of 8 these particular citations.</p> <p>9 Q. I'm going to look at one more of your 10 bullet point articles. This one appears on page 43 11 of your report. It's the first bullet on that 12 page. We're introducing that as 698. Please let 13 me know when you have it open.</p> <p>14 (Exhibit 698 marked for identification.)</p> <p>15 THE DEPONENT: Yes.</p> <p>16 Q. (By Ms. Levine-Patton) Do you recognize 17 this article?</p> <p>18 A. I do.</p> <p>19 Q. Are you aware that Smartmatic included this 20 article as its first supplemental complaint against 21 Mr. Lindell?</p> <p>22 A. I recall. Maybe that's where I found it, 23 but I don't recall.</p> <p>24 Q. Does this article mention Smartmatic?</p> <p>25 A. I don't know. Let's have a look. I don't</p> |
| <p style="text-align: right;">Page 102</p> <p>1 was a debate about these vulnerabilities.</p> <p>2 Q. And why is your point that there were 3 vulnerabilities prior to the 2020 election relevant 4 to your analysis in this case?</p> <p>5 A. So my analysis is about the discussion 6 going on in social media and on the Web prior to 7 the date, whatever it was, February -- was it 8 February 4, whatever it was, related to these 9 issues related directly to Smartmatic, related to 10 Smartmatic's history before the election and 11 related to the voting machine debate.</p> <p>12 Again, none of these discussions are 13 unrelated. I know, obviously, you want to paint it 14 was unrelated. But the voting machine debate has 15 been used by the conservative press to suggest that 16 the election was stolen.</p> <p>17 I mean, the election can't be stolen if 18 there's no vulnerabilities in the voting machines, 19 and it's my understanding that the conservative 20 position is or the vote -- whatever you call the 21 position. I'm not sure what was appropriate to 22 call it. But the position of people who's saying 23 that the election was stolen, the position is that 24 electronic voting machines were used to do that. 25 And so they -- they point back to these</p> | <p>1 think it does.</p> <p>2 Q. I'd like to go to the bottom of page 3 of 3 the article. The heading is "Three Companies." Do 4 you see that?</p> <p>5 A. I do.</p> <p>6 Q. It reads:</p> <p>7 "Part of the concern is that only three 8 Companies dominate the market: Election 9 Systems and Software, ES&S, it's the 10 largest, followed by Dominion Voting 11 Systems and Hart InterCivic. All three 12 companies have worked extremely closely 13 with election officials for years, with 14 vendors often spending thousands of dollars 15 to sponsor conferences and receptions 16 attended by the officials. The industry 17 often hires former election officials to 18 represent them."</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Now, this paragraph does not include 22 Smartmatic, does it?</p> <p>23 A. It doesn't.</p> <p>24 Q. Smartmatic was not one of the top three 25 voting machine technology providers in the US when</p> |

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|---|---|
| <p>1 this article was published, correct?</p> <p>2 A. If that's a correct statement, yeah.</p> <p>3 Q. And this article was published before</p> <p>4 Mr. Lindell began making statements about</p> <p>5 Smartmatic; is that right?</p> <p>6 MR. KACHOUROFF: Objection to form to both</p> <p>7 of these questions. I'm sorry.</p> <p>8 THE DEPONENT: Yes.</p> <p>9 Q. (By Ms. Levine-Patton) Now based on this</p> <p>10 article, would you agree it was publicly available</p> <p>11 for Mr. Lindell to discover that Smartmatic did not</p> <p>12 and does not dominate the market before he made</p> <p>13 statements about Smartmatic's alleged widespread</p> <p>14 use?</p> <p>15 A. Yes, it would have been available. I</p> <p>16 suspect Mr. Lindell wouldn't take NPR at its word,</p> <p>17 but it would have been available.</p> <p>18 Q. Are you aware that despite this publicly</p> <p>19 available information, Mr. Lindell has continued to</p> <p>20 claim that Smartmatic was widely used in the 2020</p> <p>21 US election?</p> <p>22 A. I mean, I think that's correct, but I just</p> <p>23 want to be clear that I haven't spent a lot of time</p> <p>24 reading Mr. Lindell's statements.</p> <p>25 MS. LEVINE-PATTON: Okay. I'm now</p> | <p>1 that.</p> <p>2 Q. So I do have -- I do have another version</p> <p>3 of this that I pulled directly from your Twitter</p> <p>4 that may be easier to view.</p> <p>5 MS. LEVINE-PATTON: Let's go off the record</p> <p>6 for one minute please.</p> <p>7 THE VIDEOGRAPHER: We are going off the</p> <p>8 record at 11:57 a.m.</p> <p>9 (Whereupon, there was a pause in the</p> <p>10 proceedings.)</p> <p>11 THE VIDEOGRAPHER: We are back on the</p> <p>12 record. 11:57 a.m.</p> <p>13 (Exhibit 700 marked for identification.)</p> <p>14 Q. (By Ms. Levine-Patton) We've now put in</p> <p>15 the chat Exhibit 700. If you can please open that.</p> <p>16 A. There's -- okay.</p> <p>17 Q. Now, I'll represent to you that we use a</p> <p>18 forensic software called Page Vault to save pages</p> <p>19 online, and you can see in the bottom left-hand</p> <p>20 corner the exact date and time, the URL and the</p> <p>21 document title when this document was Page Vaulted.</p> <p>22 It's a forensic software.</p> <p>23 Do you recognize this as the first page of</p> <p>24 your Twitter profile?</p> <p>25 A. Well, I recognize it. I certainly don't</p> |
| <p style="text-align: right;">Page 106</p> <p>1 introducing Exhibit 699. Please let me know when</p> <p>2 you have it open.</p> <p>3 (Exhibit 699 marked for identification.)</p> <p>4 THE DEPONENT: Yes.</p> <p>5 Q. (By Ms. Levine-Patton) Is this your</p> <p>6 Twitter profile?</p> <p>7 A. It is.</p> <p>8 Q. Do you manage your posts from your own</p> <p>9 Twitter or does someone help you with that?</p> <p>10 A. I do not recall -- I don't think this is</p> <p>11 real. I do not recall ever -- I'm sorry, I'll</p> <p>12 answer your question first. No, nobody else has</p> <p>13 access to this account. I do not recall ever</p> <p>14 replacing this.</p> <p>15 Q. So I'm looking --</p> <p>16 A. My personal belief is this is faked because</p> <p>17 I do not believe I would have ever reposted</p> <p>18 anything from Rudy Giuliani.</p> <p>19 Q. So do you see the first tweet that is on</p> <p>20 your Twitter profile here?</p> <p>21 A. The Rudy Giuliani repost?</p> <p>22 Q. Yes, sir.</p> <p>23 A. Yes, that's what I'm talking about. I</p> <p>24 don't believe this is real, because I can't</p> <p>25 imagine, unless I was blind drunk, I would forward</p> | <p style="text-align: right;">Page 108</p> <p>1 recognize these two reposts at the top. I do</p> <p>2 recognize the subsequent posts. I -- let me have a</p> <p>3 look at this.</p> <p>4 Q. Is @ clickmench, M-E-N-C-H, your Twitter</p> <p>5 handle, sir?</p> <p>6 A. It is.</p> <p>7 Q. And is that your photo on this page?</p> <p>8 A. It is. Those are -- I didn't -- I do not</p> <p>9 know how -- why they're there. I do not believe I</p> <p>10 reposted Giuliani and Elon Musk, both of whom I</p> <p>11 have a very low opinion of. I just -- I don't</p> <p>12 think this is real.</p> <p>13 Q. Is it your opinion that the last tweet that</p> <p>14 you put on your Twitter profile was on June 7,</p> <p>15 2020?</p> <p>16 A. Probably. What is this, November 2020 and</p> <p>17 September '23. So this is suggesting that</p> <p>18 11 months ago -- where are in August. 11 months</p> <p>19 ago I reposted Elon Musk. That is complete</p> <p>20 nonsense. I don't know what's going on here.</p> <p>21 Q. You did not -- so it's your testimony today</p> <p>22 that this is your Twitter profile. No one else has</p> <p>23 access to your credentials, but you did not repost</p> <p>24 the Rudy Giuliani tweet that appears at the top.</p> <p>25 Is that all accurate?</p> |

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|---|---|
| <p>1 A. It's my testimony that it appears to be my 2 profile -- excuse me -- profile, but the top piece 3 on there is from my profile. And nobody else has 4 access to my profile that I am aware of. Now I'm 5 starting to wondering. But I did not repost those 6 two posts there. I just can't imagine a 7 circumstance in which I would have done that.</p> <p>8 Q. So I just would like to read the first 9 post, which is from Rudy Giuliani. Have you ever 10 met Rudy Giuliani?</p> <p>11 A. I have not.</p> <p>12 Q. The tweet says: 13 "Did you know a foreign company, Dominion, 14 was counting our vote in Michigan, Arizona, 15 and Georgia and other states, but it was a 16 front for Smartmatic, who was really doing 17 the computing. Look up Smartmatic and 18 tweet me what you think. It will all come 19 out." 20 Is that the -- do you see that tweet?</p> <p>21 A. I do.</p> <p>22 Q. Now, I'd like to look at your report where 23 you screenshot this tweet and put it on your 24 report. It's on page 15. If you can go to your 25 report, page 15, please.</p> | <p>1 Twitter? 2 A. I do not recall doing that. And, you know, 3 if potentially I'm thinking well, perhaps while I 4 was working on this -- on this report, I forwarded 5 something just to experiment. Maybe -- maybe 6 that's what happened with -- I don't recall posting 7 either of these. I mean, because the Elon Musk 8 thing is also questionable.</p> <p>9 However, Elon Musk is a more recent one, 10 and I may have been experimenting to see -- if you 11 look at the icon underneath Elon Musk, one, two, 12 three, four across, 73M, 73 million, that's a new 13 feature in Twitter or X, whatever they want to call 14 themselves these days. That's a new feature, which 15 I actually discuss in my report.</p> <p>16 So I guess there's a possibility that I 17 retweeted these as an experiment to see -- to see 18 this new feature, because I was aware of a new view 19 feature was in there. I guess it's possible. I 20 dread to think I left them off. But that's the 21 only conclusion I can think of.</p> <p>22 I was playing -- because that's 23 September 2023. When I was doing the report -- what 24 was the date on the report? The date on the report 25 was September the 22nd. So maybe -- maybe I did</p> |
| Page 110 | Page 112 |
| <p>1 A. Report. Page 15, yes. Yes, I'm aware of 2 this being in my -- now when -- 3 Q. Now just so my record is clear, is this a 4 screenshot of the same tweet in your expert report 5 on page 15? 6 A. Hang on a second. I'm clearing up some 7 tabs because I've got so much open now. Yeah, I 8 mean it's the same tweet. The same Giuliani tweet. 9 Q. Let's go to page 8 of your report, please. 10 A. Yes. 11 Q. Now here you're defining some terms that 12 you consider technical terms; is that right? 13 A. Yes. 14 Q. I'd like to look at your definition of 15 retweet, which is in a clear bullet on the middle 16 of the page. You write: 17 "A retweet on Twitter occurs when the 18 viewer of a tweet from someone they follow 19 sends that tweet out to their own 20 followers, in effect passing the content on 21 to others." 22 Do you see that? 23 A. I do. 24 Q. Is it your testimony that you did not 25 retweet Giuliani's tweet on your own personal</p> | <p>1 tweet them and forgot to delete them. I don't 2 know. It's dreadful. 3 Q. Now you have 2,399 followers based on this 4 Exhibit 700; is that right? 5 A. Yeah, probably less now. Probably less the 6 number before I tweeted those things, reposted 7 those things, if that's what happened. 8 Q. Your Twitter profile is public, sir? 9 A. Yes. 10 Q. So anyone who comes to your Twitter profile 11 can see this? 12 A. Yeah, yeah, exactly. Horrible. 13 Q. I'd like to look at page 14 of your report. 14 In paragraph 37 -- 15 A. Paragraph 37. I'm just trying to find my 16 way there. Paragraph 37. 17 Q. Yeah. Actually, strike that. Is it -- 18 you've also written books about COVID; is that 19 right? 20 A. No, I wrote a book. The beginning when, 21 you know, I had a little free time on my hands, I 22 was experimenting with Kindle publishing, and at 23 that point I wrote a book about COVID, yes. 24 Q. I'm going to introduce Exhibit 701 in the 25 chat. Please let me know when you have it up.</p> |

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| <p>1 (Exhibit 701 marked for identification.)</p> <p>2 THE DEPONENT: Yes, this is certainly one</p> <p>3 of my posts.</p> <p>4 Q. (By Ms. Levine-Patton) And we saw this</p> <p>5 post on Exhibit 700 as well, but this just blows it</p> <p>6 up a little bit so it's easier to read.</p> <p>7 You wrote here that Amazon blocked your</p> <p>8 COVID ebook; is that right?</p> <p>9 A. Yeah, along with many other people.</p> <p>10 Q. And you say: "Amazon blocked my pandemic</p> <p>11 book so I give it away, FreePandemicBook.com"; is</p> <p>12 that right?</p> <p>13 A. I did at the time.</p> <p>14 Q. Are you aware that that link, FreePandemicBook</p> <p>15 is no longer live?</p> <p>16 A. Yes.</p> <p>17 Q. Did you remove it from the internet?</p> <p>18 A. I removed -- well, eventually Amazon let me</p> <p>19 back in, and that book was published through</p> <p>20 Amazon. It's still up through Amazon. And so I</p> <p>21 took the site down.</p> <p>22 Q. You also write in this tweet:</p> <p>23 "It raises an important question re: who</p> <p>24 has right to block speech."</p> <p>25 Do you see that?</p> | Page 113 | <p>1 So I don't know. Nobody ever told me --</p> <p>2 nobody ever told me specifically why my book was</p> <p>3 blocked, but then a lot of other books were</p> <p>4 blocked, and nobody ever told me why it was</p> <p>5 released.</p> <p>6 Q. Okay. Has your expert testimony ever been</p> <p>7 excluded by a court in whole or in part?</p> <p>8 A. Sure.</p> <p>9 Q. Do you know how many times?</p> <p>10 A. Three or four. Never -- never with any</p> <p>11 black marks. But, you know, there's always cases</p> <p>12 where the other side objects, and you're told all</p> <p>13 right you can't testify about paragraph 53. You</p> <p>14 can't testify about this particular document or</p> <p>15 whatever.</p> <p>16 Q. Does seven times excluded sound about</p> <p>17 right?</p> <p>18 A. I don't know. It's possible. I'm assuming</p> <p>19 you're not just plucking a number out of the air,</p> <p>20 so maybe it's true.</p> <p>21 Q. And were you excluded in several of those</p> <p>22 cases for improperly giving a legal opinion?</p> <p>23 A. Yes, I have been excluded for when</p> <p>24 something I said was interpreted as giving a legal</p> <p>25 opinion. I -- I do recall one case, it was judged</p> | Page 115 |
| <p>1 A. I do.</p> <p>2 Q. Do you know why Amazon blocked your book</p> <p>3 about COVID?</p> <p>4 A. They -- they never -- well, they did say</p> <p>5 they would send out boilerplate saying you</p> <p>6 contravened some policy without ever telling me</p> <p>7 what you did wrong. But what was happening at the</p> <p>8 time was before I published my book, Amazon had so</p> <p>9 many really junk books published about COVID. So</p> <p>10 this was early in the pandemic. People, for</p> <p>11 instance, were just downloading the CDC website or</p> <p>12 downloading a national health website from the UK</p> <p>13 or whatever. Downloading all the COVID information</p> <p>14 and putting it into a Kindle book and selling it as</p> <p>15 a book.</p> <p>16 So Amazon apparently was getting flooded,</p> <p>17 and they essentially banned all books about COVID.</p> <p>18 Q. Did Amazon ever tell you why they blocked</p> <p>19 your book about COVID specifically?</p> <p>20 A. No, they wouldn't -- they wouldn't say.</p> <p>21 However, the morning after I e-mailed certain</p> <p>22 senior executives at Amazon, my book was -- went</p> <p>23 through the process, continued through the process.</p> <p>24 The block was removed the morning after I e-mailed</p> <p>25 these people.</p> | Page 114 | <p>1 that I had given a legal opinion related to</p> <p>2 paperclip advertising and whether it was legal or</p> <p>3 not. The same -- exact same evidence had been</p> <p>4 accepted by a different court. So a lot of it's</p> <p>5 interpretation.</p> <p>6 Q. Do you recall the case Bal Seal Engineering</p> <p>7 versus Nelson Products Incorporated?</p> <p>8 A. I do.</p> <p>9 Q. You served as an expert for Bal Seal?</p> <p>10 A. That sounds right. It was a small case a</p> <p>11 few years ago. I don't recall a lot about it.</p> <p>12 Q. Are you aware your testimony was excluded</p> <p>13 in total in that case?</p> <p>14 A. I don't think I am. I think this is the</p> <p>15 first I've heard of that.</p> <p>16 Q. Okay.</p> <p>17 MS. LEVINE-PATTON: We're going to</p> <p>18 introduce Exhibit 702. Please let me know when you</p> <p>19 have it up.</p> <p>20 (Exhibit 702 marked for identification.)</p> <p>21 THE DEPONENT: Yeah, I've got it -- I have</p> <p>22 it open.</p> <p>23 Q. (By Ms. Levine-Patton) So this is the</p> <p>24 judge's order on a number of matters in that case,</p> <p>25 including your exclusion. I'd like to turn to</p> | Page 116 |

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| <p style="text-align: right;">Page 117</p> <p>1 page 8 of this document. 2 A. I'm there. 3 Q. Heading 10. 4 A. Yes. 5 Q. It says: 6 "Defendant's Daubert motion No. 1 to 7 exclude Peter Kent and the ruling is 8 granted." 9 Do you see that? 10 A. I do. 11 Q. This is a trade secret case, correct? 12 A. Yeah. 13 Q. And in this case you opine -- 14 A. I think, I didn't mean to speak over you. 15 Q. I'm sorry. Hard over zoom. 16 You opine that defendants employed Black 17 Hatting techniques, wherein they embedded code on 18 their website to intentionally steer customers 19 looking for Bal Seal parts to their website. 20 Was that your opinion in this case? 21 A. I assume so. That's what it says here. I 22 don't recall the details. 23 Q. Now a black hatting technique is when 24 someone using improper methods to steer internet 25 traffic to a particular website, correct?</p> | <p style="text-align: right;">Page 119</p> <p>1 motion in part and granted it in part related to, I 2 think, a single sentence or a single paragraph. 3 You probably have it in front of you. 4 Q. Yeah, it might be easier, or go quicker if 5 I introduce it. So we're introducing 703. Please 6 let me know when you have it open? 7 (Exhibit 703 marked for identification.) 8 THE DEPONENT: I have it open. Sorry. 9 Q. (By Ms. Levine-Patton) I'd like to look at 10 page 10 please. Do you see page 10? 11 A. Okay. I'm on 10. 12 Q. The court found that it was improper for 13 you to opine on the legal significance of the Drips 14 access agreement. Do you see that? 15 A. I do. 16 Q. And on page 11, the court specifically 17 found it was improper for you to opine as to the 18 legal ramifications or make legal interpretations 19 of the agreements, correct? 20 A. Yeah. This wasn't a patent case, is it? 21 Okay. 22 Q. I believe it was a trade secrets case, but 23 that's okay. 24 A. Yeah, no, I think you're right. 25 Q. And based on this ruling, the court limited</p> |
| <p style="text-align: right;">Page 118</p> <p>1 A. Yeah, in a general sense that description 2 could work. 3 Q. And the defendants moved to exclude your 4 opinion, correct? 5 A. Apparently. 6 Q. And you were not allowed to testify in that 7 case? 8 A. I don't know. I haven't read all this. 9 MR. KACHOUROFF: Object to your 10 characterization of the record. I think it speaks 11 for itself, Maura. 12 Q. (By Ms. Levine-Patton) Did you testify at 13 trial in that matter? 14 A. I did not. 15 Q. Do you recall a case Drips Holdings versus 16 Teledrip, LLC? 17 A. I do, and I know one or two sentences or 18 perhaps even paragraphs were excluded. And I 19 don't -- quite the fact I don't see how these 20 things help you. This first case there's no 21 strike. There's no black mark against me. I was 22 asked to do a job, I did the job, and then they 23 determined it wasn't relevant. 24 In the Drips case you're mentioning, it was 25 a patent case, and I think the judge denied the</p> | <p style="text-align: right;">Page 120</p> <p>1 your testimony at trial. Do you recall that? 2 A. I don't remember now. I think I knew about 3 it. 4 Q. Okay. We're going to look at one more 5 case. Opal Labs versus sprinkler. Do you remember 6 that case. 7 A. I do. 8 Q. You were an expert for plaintiff Opal Labs? 9 A. Correct. 10 Q. That was also a trade secrets case? 11 A. Yes. 12 MS. LEVINE-PATTON: We're now introducing 13 Exhibit 704. 14 Q. (By Ms. Levine-Patton) Please let me know 15 when you have it open. 16 (Exhibit 704 marked for identification.) 17 THE DEPONENT: I wasn't excluded -- I 18 wasn't excluded for testifying in Opal Labs, 19 because I actually sat on the stand and testified. 20 Q. (By Ms. Levine-Patton) I'd like to direct 21 your attention to page 4 once you have the document 22 open. 23 A. I've got it open. 24 Q. The second paragraph on page 4 starts 25 "however"; do you see that?</p> |

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| Page 121 | Page 123 |
|--|--|
| 1 A. Yes. | 1 United States in 2020? |
| 2 Q. Now on this case you opine on the relevant | 2 A. I actually do. |
| 3 industry standards for assessing whether plaintiff | 3 Q. Do you believe that the 2020 election was |
| 4 took reasonable measures to maintain the secrecy of | 4 free and fair? |
| 5 its trade secrets, correct? | 5 A. Yes, I do believe it was, yeah. |
| 6 A. Yes. | 6 Q. Do you believe voting machines were used to |
| 7 Q. And the court held that you did not provide | 7 rig the 2020 presidential election in favor of |
| 8 adequate foundation for this testimony, correct? | 8 Biden over Trump? |
| 9 A. Yes, I guess so. | 9 A. I don't. |
| 10 Q. The court found your opinion unreliable | 10 Q. Do you believe that Dominion rigged the |
| 11 because you could not identify with any certainty a | 11 2020 presidential election for Biden over Trump? |
| 12 comparator business; is that correct? | 12 A. I don't. |
| 13 A. Yes, the court was unable -- | 13 Q. Do you believe that Smartmatic owns |
| 14 MR. KACHOUROFF: Hold on. | 14 Dominion? |
| 15 You're asking him to give a legal | 15 A. No. |
| 16 interpretation of a court order? | 16 Q. Do you believe that Dominion is a front for |
| 17 MS. LEVINE-PATTON: I'm sorry. Is that an | 17 Smartmatic? |
| 18 objection? | 18 A. Well -- well, I should say -- well, no, I |
| 19 MR. KACHOUROFF: It is. I don't understand | 19 don't think so, but again these are not really -- I |
| 20 the question. Maybe you want to repeat it. | 20 don't have any particular knowledge about this, |
| 21 MS. LEVINE-PATTON: I'm sorry. What's your | 21 just things I've read online. |
| 22 objection for the record? | 22 Q. Is it your belief that Dominion is a front |
| 23 MR. KACHOUROFF: The objection is you're | 23 for Smartmatic? |
| 24 asking him to give a legal interpretation of a | 24 A. Same -- same answer, but in general, no. |
| 25 legal opinion when you just got through asking | 25 Q. Do you believe that Smartmatic used |
| Page 122 | Page 124 |
| 1 him -- telling him he's been excluded for doing | 1 Dominion to fix the 2020 presidential election for |
| 2 that. I don't understand what your question is. | 2 Biden over Trump? |
| 3 Repeat it. | 3 A. No. |
| 4 MS. LEVINE-PATTON: Is that an objection to | 4 Q. Do you believe that Smartmatic rigged the |
| 5 form? Sorry, Chris, I'm just trying to follow the | 5 2020 election at all for Biden over Trump? |
| 6 federal rules. | 6 A. No. |
| 7 MR. KACHOUROFF: I'm objecting to form, | 7 Q. Do you believe that anyone from Venezuela |
| 8 yeah. Form of the question. | 8 rigged the 2020 presidential election for Biden |
| 9 MS. LEVINE-PATTON: Thank you. | 9 over Trump? |
| 10 Q. (By Ms. Levine-Patton) Do you recall the | 10 A. No. |
| 11 court finding your opinion unreliable because you | 11 Q. Do you believe that anyone connected to |
| 12 could not identify with any certainty a comparator | 12 Hugo Chavez or Nicolas Maduro rigged the 2020 US |
| 13 business, Mr. Kent? | 13 election for Biden over Trump? |
| 14 A. I don't remember this. I don't remember | 14 A. No. |
| 15 seeing this. I mean, obviously the attorneys I was | 15 Q. Do you believe that Smartmatic software and |
| 16 working for didn't care that much because I | 16 algorithms manipulated vote counts in the 2020 |
| 17 testified at trial. | 17 presidential election? |
| 18 Q. Did you testify to the relevant industry | 18 A. No. |
| 19 standards for assessing whether plaintiff took | 19 Q. Do you believe that Dominion used |
| 20 reasonable measures to maintain secrecy of its | 20 Smartmatic software to manipulate the vote count in |
| 21 trade secrets at trial? | 21 the 2020 presidential election? |
| 22 A. Well, I don't remember. I assume not | 22 A. No. |
| 23 because of this document. | 23 Q. Do you believe that the voting machines |
| 24 Q. Mr. Kent, do you believe that Joseph Biden | 24 were used in the 2020 presidential election to |
| 25 was legitimately elected the president of the | 25 alter and change millions of votes across multiple |

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| Page 125 | Page 127 |
|--|---|
| 1 states? | 1 DEPOSITION ERRATA SHEET |
| 2 A. No. | 2 |
| 3 MS. LEVINE-PATTON: I have no further | 3 |
| 4 questions and I pass the witness. | 4 Our Assignment No. J11561327 |
| 5 MR. KACHOUROFF: I have nothing further for | 5 Case Caption: SMARTMATIC USA CORP., et al. |
| 6 Mr. Kent. Thank you very much, Maura. I | 6 vs. MICHAEL J. LINDELL, et al. |
| 7 appreciate the brevity. | 7 |
| 8 THE VIDEOGRAPHER: Real quick. Ms. Patton, | 8 DECLARATION UNDER PENALTY OF PERJURY |
| 9 I know your firm has a standing order. | 9 I declare under penalty of perjury |
| 10 But, Mr. Kachouroff, would you like to | 10 that I have read the entire transcript of |
| 11 order a copy of the transcript and/or the video at | 11 my Deposition taken in the captioned matter |
| 12 this time. | 12 or the same has been read to me, and |
| 13 MR. KACHOUROFF: Yes, sir, both of them. | 13 the same is true and accurate, save and |
| 14 Thanks. | 14 except for changes and/or corrections, if |
| 15 THE VIDEOGRAPHER: This concludes the | 15 any, as indicated by me on the DEPOSITION |
| 16 deposition of Peter Kent. We're going off the | 16 ERRATA SHEET hereof, with the understanding |
| 17 record at 12:20 p.m. Central Time. | 17 that I offer these changes as if still under |
| 18 THE REPORTER: Chris, did you want a copy | 18 oath. |
| 19 of this? | 19 Signed on the _____ day of |
| 20 MR. KACHOUROFF: Yes, please. | 20 _____, 2024. |
| 21 THE REPORTER: You'll handle signature? | 21 |
| 22 MR. KACHOUROFF: Yes. | 22 _____ |
| 23 (The deposition concluded at 12:20 p.m., | 23 PETER KENT |
| 24 this 7th day of August 2024.) | 24 |
| 25 | 25 |
| Page 126 | Page 128 |
| 1 REPORTER'S CERTIFICATE | 1 DEPOSITION ERRATA SHEET |
| 2 I, PATRICIA VIGIL-LADNER, Registered | 2 Page No. _____ Line No. _____ Change to: _____ |
| 3 Professional Reporter and Notary Public in and for | 3 _____ |
| 4 the State of Colorado, duly commissioned to | 4 Reason for change: _____ |
| 5 administer oaths, do hereby certify that, previous | 5 Page No. _____ Line No. _____ Change to: _____ |
| 6 to the commencement of the examination, the witness | 6 _____ |
| 7 was duly sworn by me to testify to the truth in | 7 Reason for change: _____ |
| 8 relation to the matters in controversy between the | 8 Page No. _____ Line No. _____ Change to: _____ |
| 9 said parties; that the said deposition was taken in | 9 _____ |
| 10 stenotype by me at the time and place aforesaid and | 10 Reason for change: _____ |
| 11 was thereafter reduced to printed form by use of | 11 Page No. _____ Line No. _____ Change to: _____ |
| 12 computer-assisted transcription under my | 12 _____ |
| 13 supervision; that the foregoing pages is a true and | 13 Reason for change: _____ |
| 14 correct transcript of my stenotype notes thereof; | 14 Page No. _____ Line No. _____ Change to: _____ |
| 15 That I am not attorney nor counsel, nor in | 15 _____ |
| 16 any way connected with any of the parties to said | 16 Reason for change: _____ |
| 17 action, nor otherwise interested in the outcome of | 17 Page No. _____ Line No. _____ Change to: _____ |
| 18 this action. | 18 _____ |
| 19 IN WITNESS WHEREOF: I have affixed my | 19 Reason for change: _____ |
| 20 signature and seal this 8th day of August 2024. | 20 Page No. _____ Line No. _____ Change to: _____ |
| 21 | 21 _____ |
| 22 My commission expires December 7, 2025. | 22 Reason for change: _____ |
| 23 | 23 _____ |
| 24 | 24 SIGNATURE: _____ DATE: _____ |
| 25 PATRICIA VIGIL-LADNER, RPR | 25 PETER KENT |
| | (303) 949-4442 |

PETER KENT
Smartmatic USA Corp vs Michael J. Lindell

August 07, 2024
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| | Page 129 |
| 1 | DEPOSITION ERRATA SHEET |
| 2 | Page No. _____ Line No. _____ Change to: _____ |
| 3 | _____ |
| 4 | Reason for change: _____ |
| 5 | Page No. _____ Line No. _____ Change to: _____ |
| 6 | _____ |
| 7 | Reason for change: _____ |
| 8 | Page No. _____ Line No. _____ Change to: _____ |
| 9 | _____ |
| 10 | Reason for change: _____ |
| 11 | Page No. _____ Line No. _____ Change to: _____ |
| 12 | _____ |
| 13 | Reason for change: _____ |
| 14 | Page No. _____ Line No. _____ Change to: _____ |
| 15 | _____ |
| 16 | Reason for change: _____ |
| 17 | Page No. _____ Line No. _____ Change to: _____ |
| 18 | _____ |
| 19 | Reason for change: _____ |
| 20 | Page No. _____ Line No. _____ Change to: _____ |
| 21 | _____ |
| 22 | Reason for change: _____ |
| 23 | _____ |
| 24 | SIGNATURE: _____ DATE: _____ |
| 25 | PETER KENT |